

REPORT OF

**THE JOINT COMMISSION ON
TECHNOLOGY AND SCIENCE**

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA



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Executive Summary

Created by the 1997 General Assembly through House Bill 2138, JCOTS is a permanent legislative commission charged to study all aspects of technology and science, to promote the development of technology and science in the Commonwealth of Virginia through sound public policies, and to report its findings annually to the Governor and the General Assembly (See Chapter 11 of Title 30 of the Code of Virginia, § 30-85 et seq.). JCOTS, which consists of twelve legislators (seven Delegates and five Senators), submits its seventh report today.

JCOTS' 2003-2004 work plan identified four issues for study through the establishment and work of advisory committees, co-chaired by JCOTS members: Consumer Protection; Cyberlaw; Integrated Government; and the Hard Sciences. The work plan also identified new issues to be introduced at Commission meetings through testimony and presentations – homeland security and the use of DNA and forensics in criminal investigations-- as well as other issues to be monitored throughout the year -- privacy of personal information in court documents and taxes on Internet sales.

JCOTS adopted the findings and recommendations of its advisory committees and submits them for consideration.

Advisory Committee on Consumer Protection

The Advisory Committee on Consumer Protection was charged with reviewing and recommending changes to the consumer protection laws of the Commonwealth and their application to electronic commerce transactions.

The Committee received briefings on the consumer protection services and resources offered by the Office of the Attorney General and the Office of Consumer Affairs, the agencies that provide the two main avenues for consumer redress in Virginia. The Committee also learned about efforts to address confidential information in court documents and electronic filings. Among those efforts are the Model Written Policy Governing Access to Court Records and the Uniform Real Property Electronic Recordation Act. The Commission will be addressing these issues for many years to come.

As part of its study, the Committee focused on several bills referred to the Commission by the House Committee on Science and Technology during the 2003 Session and continued until the 2004 Session. The Committee discussed House Bill No. 1887 (Patron – May) on workplace privacy and House Bill No. 2564 (Patron – Scott) on electronic credit card transactions. Building upon the General Assembly's efforts to limit the distribution of confidential information in court records, the Committee also discussed a proposal to restrict social security numbers on land records.

With several concerns raised about the workplace privacy proposal and given the current efforts by other organizations, the Committee declined to make any legislative recommendations on this topic. The proposal on social security numbers on land records met a similar fate for the same reasons. However, after discussing the credit card transaction issue and receiving public comment, the Committee

recommended an alternative to HB 2564 that applied the proposal to all circumstances regardless of the medium, but limited its application to the claims and defenses of the Fair Credit Billing Act.

Advisory Committee on Cyberlaw

The Advisory Committee on Cyberlaw was charged with reviewing the laws of the Commonwealth regarding their applicability to the information age and beyond, and recommending appropriate changes. The Committee focused on two major issues, the Uniform Computer Information Transactions Act (UCITA) and identity theft.

UCITA represents the first comprehensive uniform computer information licensing law. The Act uses the accepted and familiar principles of contract law. It sets the rules for creating electronic contracts and the use of electronic signatures for contract adoption, thereby making computer information transactions as well grounded in the law as traditional transactions. Since Virginia enacted UCITA in 2000, the Nation Conference of Commissioners on Uniform State Laws (NCCUSL), one of the original drafters of the law, has amended the underlying uniform law. In fact, several of NCCUSL's recent amendments to UCITA arose from changes Virginia made as a result of the work of JCOTS.

Among the major provisions of the recommendations were a provision specifically excluding insurance services transactions from the scope, expanding the application of consumer protection statutes to licenses for computer information and the right to engage in lawful public comment from mass-market licenses to all licenses for computer information in its final form that is made generally available. Finally, open-source software is expressly not covered by the Act if only copyright permission is given and is not part of a contract; if there is a contract, there are no implied warranties if there is no commercial gain from the transaction.

To address a significant and costly but simple solution to one factor of identity theft – credit card fraud – the Committee voted to speed up compliance with the restrictions on printing payment device numbers and expiration dates on electronic receipts and expanding the restriction to include printed receipts. However, to address an issue created when Congress subsequently enacted a similar restriction for electronic credit card and debit card receipts, the recommendation was amended to cover payment devices in general. This way, a change in the federal law will not require amending state law again to address this issue. While the Committee did not adopt any other recommendations on this issue at this time, it did recommend that the Commission continue studying privacy issues.

Additional Commission Legislation on Privacy

Building on its work over the last couple of years, the Commission voted on two additional legislative proposals designed to limit the flow of confidential information. The first proposal would amend the Government Data Collection and Dissemination Practices Act by limiting the appearance of unique identifying numbers on public records. The legislation would prohibit filing or creating public records that contain more than the last four digits of any unique identifying number, unless the use is required by law or the record is exempt from disclosure. A unique identifying number is as any alphabetic or

numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The legislation excludes from this definition unique identifying numbers that are assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Preparers and filers would have the responsibility of certifying compliance.

The second proposal would amend the Personal Information Privacy Act by restricting the use of social security numbers in both the public and private sectors. Among other things, the proposal would prohibit making the social security number available to the general public, requiring consumers to provide the number to access goods or services unless required by law, and printing the number on an identification card. In addition, the proposal would require that insurance plans for state employees assign an identification number that is not a covered employee's social security number. Finally, the proposal would amend the Virginia Consumer Protection Act to prohibit a supplier from using a consumer's social security number when the consumer requests that his driver's license number be used. While current law requires that a supplier only provide an alternate number if the consumer so requests in writing, this proposal would provide consumers with another option other than providing their social security numbers and writing to the supplier for a new number.

Public comment on both proposals was mixed ranging from a request that the proposals further restrict confidential information to concerns that the proposals are too restrictive. The purpose of the proposals is to limit the general availability of key pieces of information used in identity theft while allowing their legitimate uses. The Commission unanimously voted to adopt these measures.

Advisory Committee on Integrated Government

The Advisory Committee on Integrated Government was charged with exploring the issues raised by the transformation of government in the digital age. The Committee continued focusing on the state of information technology (IT) procurement in the Commonwealth, including the newly created Virginia Information Technologies Agency (VITA) and Information Technology Investment Board (ITIB).

The Committee received briefings on the implementation of VITA, including updates from the Secretary of Technology, VITA staff, Joint Legislative Audit and Review Commission staff, and JCOTS staff. The Committee also received briefings on the state of IT procurement in the Commonwealth, including updates on VITA's procurement reform efforts, and on Virginia's spend analysis consulting services contract. VITA's new procurement manual incorporated several recommendations made by last year's Advisory Committee on Integrated Government.

Finally, the Committee discussed JCOTS' efforts to establish two regularly scheduled two-hour meeting times every month during the interim to make videoconference facilities available to public bodies in the legislative branch. These efforts arise in response to the Commission's decision in December 2002 to establish such meeting times as part of the Pilot Project, an exemption to the Virginia Freedom of Information Act that applies to meetings held via videoconference. The Pilot Project is due to sunset on

July 1, 2005. The Committee made no recommendations at this time, though the Commission will continue to monitor these efforts.

Advisory Committee on the Hard Sciences

The Advisory Committee on the Hard Sciences was charged with evaluating the economic environment and capabilities of the Commonwealth to contribute to and benefit from the growth of new technologies and industries. The Committee focused on the infrastructure and resources necessary for high technology research projects and commercialization of those efforts and specifically focused on Internet2 as directed by HJR 653 (2003), distance learning and the Virginia Biotechnology Initiative.

The Committee learned that Internet2 is being replaced by the National LambdaRail (NLR), a system that will exclusively controlled by the research universities and private sector technology companies that are part of the NLR initiative. To join this effort, Virginia Tech, the University of Virginia, Old Dominion University, Virginia Commonwealth University, George Mason University, the College of William and Mary, and associate member Oak Ridge Associated Universities formed the Mid-Atlantic Terascale Partnership (MATP). On behalf of MATP, the Virginia Tech Foundation is underwriting a five-year, \$5 million commitment to ensure the location of an NLR node in Washington, D.C.

The briefings from the Virginia Biotechnology Initiative (VBI) and Virginia Educational Ventures (VEV; the group that addressed distance-learning initiatives) included a number of recommendations. VBI's goal is to form an integrated long-term strategy, designed to place Virginia among the top 10 states in Biotechnology by 2010. To accomplish this objective, VBI proposed creating and funding an organization to bridge the gap between academia and business. Such an organization would help researchers and businesses commercialize intellectual property developed at the research institutions while allowing each to advance its different goals. VEV recommended creating and funding an authority to encourage, through coordination and financial support, new educational initiatives that address educationally underserved constituencies in technologically innovative and cost efficient ways.

Because of the extensive collaboration of the research institutions on NLR, the Committee took no action other than to support their efforts. In addition, the Committee endorsed the recommendations of VBI and VEV, while taking no position on its budget requests.

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**REPORT OF THE JOINT COMMISSION ON
TECHNOLOGY AND SCIENCE
to
The Governor and
The General Assembly of Virginia
Richmond, Virginia
MONTH 2004**

I. THE JOINT COMMISSION ON TECHNOLOGY AND SCIENCE (JCOTS)

To continue the work begun by the Task Force on Science and Technology established under House Joint Resolution 390 (1993), the 1996 General Assembly adopted House Joint Resolution 195, which created a joint legislative subcommittee to study science and technology. The subcommittee reported to the Governor and the 1997 General Assembly in House Document No. 81 (1997). The creation of the Joint Commission on Technology and Science ("JCOTS" or "Commission") was included among the recommendations of the subcommittee. Created by the 1997 General Assembly through House Bill 2138, JCOTS is a permanent legislative commission charged to study all aspects of technology and science, to promote the development of technology and science in the Commonwealth of Virginia through sound public policies, and to report its findings annually to the Governor and the General Assembly. (*See* Chapter 11 of Title 30 of the Code of Virginia, § 30-85 et seq.) JCOTS, which consists of twelve legislators (seven Delegates and five Senators), submitted its first report to the Governor and the 1998 General Assembly in House Document No. 89 (1998) and submits its seventh report today. JCOTS maintains a website at <http://jcots.state.va.us/>.

At its meeting on May 21, 2003, JCOTS adopted its 2003-2004 work plan (*see* Appendix 1). The work plan identified four issues for study through the establishment and work of advisory committees, co-chaired by JCOTS members: Consumer Protection (Senator Ticer, Senator Bolling and Delegate Christian, co-chairs); Cyberlaw (Delegate May, Senator Wampler and Delegate D. Marshall, co-chairs); Integrated Government (Delegate Nixon, Senator Howell, Delegate Purkey, co-chairs); and The Hard Sciences (Senator Newman, Delegate Plum and Delegate T. Rust, co-chairs).

JCOTS' work plan also identified new issues to be introduced at Commission meetings through testimony and presentations, possible field trips, and other issues to be monitored throughout the year. To accomplish these objectives and establish its legislative agenda, JCOTS met as a full commission four times from May 2003 to December 2003. During the period from July to November 2003, advisory committees held 12 meetings (*see* Appendix 2). Approximately 60 people participated in JCOTS' work through membership on advisory committees (*see* Appendix 3). JCOTS received and adopted advisory committee reports and finalized its legislative recommendations for the 2004 Session its meeting on December 2, 2003.

II. COMMISSION MEETINGS AND ACTIVITIES

A. ORGANIZATIONAL MEETING

The Joint Commission on Technology and Science (JCOTS) held its first meeting of the 2003-2004 interim on May 21. Mitchell Goldstein, Director of JCOTS, presented the proposed 2003-2004 Work Plan. The Work Plan identifies four topics for advisory committees to study: Consumer Protection, Cyberlaw, the Hard Sciences and Integrated Government. JCOTS unanimously adopted the Work Plan. Delegate May announced the co-chairs of the advisory committees. Senator Ticer, Senator Bolling, and Delegate Christian will co-chair the Advisory Committee on Consumer Protection. Delegate May, Senator Wampler, and Delegate D. Marshall will co-chair the Advisory Committee on Cyberlaw. Senator Newman, Delegate Plum, and Delegate T. Rust will co-chair the Advisory Committee on the Hard Sciences. Delegate Nixon, Senator Howell, and Delegate Purkey will co-chair the Advisory Committee Integrated Government.

The Work Plan also identifies topics to study through Commission meetings, including Homeland Security, DNA evidence and tax issues. Continuing its tours around the Commonwealth, the Commission plans to tour Charlottesville's science and technology assets.

JCOTS also voted unanimously to re-elect Delegate May as chairman and Senator Stephen Newman as vice-chairman.

Virginia Information Technologies Agency

From the 2003 Session of the General Assembly, House Bill No. 1926 and Senate Bill No. 1247 launched the most significant reorganization of the Commonwealth's information technology operations since the creation of the Secretary of Technology in 1998. The legislation combines the Department of Information Technology (the operations agency), the Department of Technology Planning (the policy-making agency) and the Virginia Information Providers Network Authority (the agency that manages the official state portal and helps other agencies with their e-government activities) into the new Virginia Information Technologies Agency (VITA). VITA will assume all of the powers and duties of the consolidated agencies, including the procurement authority for all information technology and telecommunications goods and services that was transferred from the Department of General Services to the Department of Information Technology in the 2002 Session by H.B. 519.

The newly created Information Technology Investment Board will oversee VITA in the planning, budgeting, acquiring, managing, and disposing of major information technology projects; major information technology projects are those that are estimated to cost at least \$1 million, of statewide importance or mission critical. The Chief Information Officer (CIO) of the Commonwealth, hired by the Board under a 5-year contract, will serve as VITA's chief administrative officer and oversee its day-to-day operations. The legislation removes the CIO function from the Secretary of Technology, though he will be a member of the Board with full voting privileges and the initial CIO until the Board hires a new one.

On July 1, 2003, VITA will assume all of the functions and responsibilities of the former agencies. Through an implementation schedule ending no later than January 1, 2005, the CIO is required to consolidate the procurement, state network management and server and other operation functions, including appropriate staff into the new agency. This consolidation excludes agency-specific mission-critical applications. The public institutions of higher education and the Virginia Housing Development Authority also are exempted from this consolidation.

VITA will implement a project planning, development and approval process for major information technology projects. The CIO may direct the modification or suspension of any major information technology project that, as the result of a periodic review, has not met the performance measures agreed to by the CIO and the sponsoring agency or public institution of higher education. The Board has the power to approve or disapprove the development of all major information technology projects and may terminate any major information technology project recommended for termination by the CIO. In addition, the legislation requires internal oversight committees for major information technology projects. A major information technology project is any state agency information technology project that is mission-critical, has statewide application, or has a total estimated cost of more than one million dollars.

Every year, the Board must submit a list of recommended technology investment projects and priorities for funding such projects to the Governor and the General Assembly. With the new agency, the Governor and the General Assembly expect to leverage the Commonwealth's buying power and better manage its vast technology resources. To further accomplish this goal, the legislation establishes within VITA the Division of Project Management to assist the CIO in the development and implementation of a project management methodology to be used in the planning and development of information technology projects.

Eugene Huang, Deputy Secretary of Technology, informed the Commission that the administration was preparing an operating plan for August 1 that contains seven key items. The plan will outline the VITA organization and key positions, describe the process for integrating the consolidated functions and activities into VITA, indicate the structure and process for negotiating the memorandum of agreement with the customer agencies, reveal the schedule of rates and charges for the internal service funds, describe the process for review and approval of major IT projects, outline training for employees during the transition, and provide a timeline for the transition of employees and consolidation of equipment into VITA.

VITA will provide services to the agencies subject to the consolidation through a memorandum of agreement (MOA). The MOA is a written agreement between VITA and the agencies that details the services that VITA will provide and defines the responsibilities of the parties. According to Deputy Secretary Huang, no individuals or services will be transferred to VITA until the MOA is finalized.

Information Technology Investment Board

The Commission discussed its responsibilities for suggesting members of the Board that will run VITA. Under the legislation, the Governor must appoint four members of the Board. One of the those members must be appointed from a list of seven people recommended by the House Committee on Science and Technology and the Senate Committee on General Laws and have experience as senior information technology management personnel for a company with annual gross revenues in excess of \$50 million. The Joint Rules Committee appoints four members who are recommended by the Commission. All appointed members must be non-legislators and citizens of the Commonwealth with experience in information technology systems or other technology systems. The Secretary of Technology and Auditor of Public Accounts form the remainder of the Board. All members, except the Auditor of Public Accounts, can vote.

Chairman May informed the body and the public to submit any recommendations to the Commission staff for consideration.

Genetics

Beginning the science portion of the meeting, the Science Club of the Maggie L. Walker Governor's School presented a report on genetics. Alex Sledd, Stephanie Byers, David Chiao, and Brian Glover enlightened the Commission on the basic essentials of genetics, including cloning, stem cell research, genetic engineering and DNA fingerprinting. Fifty years ago, on Feb. 28, 1953, James Watson and Francis Crick found the secret of life by discovered that the structure of deoxyribonucleic acid (DNA) is a double helix that can unzip to make copies of itself, confirming suspicions that DNA carries life's hereditary information. This discovery touched off a wealth of genetic research that offers unlimited potential to improve life on Earth from curing disease to enabling criminal detection and capture. DNA is the blueprint for life. It codes for eye color and bone structure, it tells the cell how to undergo cellular respiration or repair damaged tissue, and it is the vehicle for inheritance and evolution.

DNA is a chemical structure that is stored in the nucleus of the cell as chromosomes. Each segment of a chromosome that dictates a particular trait is called a gene. DNA consists of two strands of genetic material spiraled around each other. These strands are composed of repeating units called nucleotides. Each nucleotide is composed of three parts: (1) one of four nitrogenous bases known as adenine (A), guanine (G), cytosine (C), and thymine (T) (adenine and guanine are purines, meaning that they have a 2-ring structure, while cytosine and thymine have a single ring and are known as pyrimidines); (2) a sugar, deoxyribose; and (3) a phosphate group. The two strands of DNA are connected at each base. Each base will only bond with one other base, as follows: Adenine (A) will only bond with thymine (T), and guanine (G) will only bond with cytosine (C). The human genome contains over 3 billion nitrogenous base pairs.

When scientists refer to the DNA sequence or the DNA code, they are referring to the sequence of nitrogenous bases along the inside of the double-helix, and since nitrogenous bases always bind to their complement, the sequence is preserved during replication. One example of a sequence includes

AGTACG (adenine, guanine, thymine, adenine, cytosine, guanine) whose complement would read TCATGC, and in ribonucleic acid, or RNA, the sequence would read as AGUACG (with the U representing uracil, which replaces thymine in RNA). A mutation occurs when there is an alteration in this base pair sequence, and different types of mutations affect the organism in varying degrees.

DNA works through coding for the synthesis of proteins. The work of translating the information into a medium that can be used directly by the cell is done by RNA. First, a specific section of the DNA, or gene, is "transcribed" into messenger RNA (mRNA), a single-stranded molecule that carries a copy of the DNA sequence out of the nucleus to a ribosome. The sequence of the mRNA tells the ribosome, an organelle that acts as the site of protein synthesis, which protein building blocks (or amino acids) it needs and in what order to assemble them. Transfer RNA (tRNA) matches one of twenty amino acids up with a short sequence of three nitrogenous bases on the mRNA, thus helping to translate the mRNA message into chains of amino acids in the ribosomes. The chains of amino acids form chemical bonds, which turn them into proteins. Proteins are the chemicals that make up cell and organ structure and carry out reactions throughout the body, from breaking down food to fighting off disease.

It is through these protein products that DNA and variations in the DNA sequence produce diversity and control the forms and functions of life. A protein's function is determined by its structure, and a protein's structure is determined by the DNA sequence that codes for it. Proteins have 8 main functions that allow them to regulate life:

1. Structural – proteins such as collagen, which is found in connective tissue, and keratin, which is found in hair, provide support;
2. Storage – proteins such as casein, which is found in milk, allow for storage of amino acids;
3. Transport – proteins such as hemoglobin, which is found in the blood and carries oxygen, transport other substances;
4. Hormonal – proteins such as insulin, which monitors sugar levels, coordinate an organism's activities;
5. Receptor – proteins such as the various synaptic receptors found in nerve cells coordinate a cell's response to chemical stimuli;
6. Contractile – proteins such as actin and myosin, which are found in the muscle, allow for movement;
7. Defensive – proteins such as antibodies protect against pathogens and infection; and
8. Enzymatic – enzymes are proteins that selectively accelerate chemical reactions, so that, for example, the food in your stomach won't take a century to self-digest.

Stem cells are cells that have the ability to divide for an indefinite period of time and give rise to specialized cells. A specialized cell is marked by selective gene expression and tailored to only a specific function, such as that of a liver or brain cell. There are three major types of stem cells: totipotent, pluripotent, and multipotent. When a sperm fertilizes an egg, it creates a single cell that has the potential to create an entire organism, (totipotent – potential is a total organism). Identical twins develop from the division of two totipotent cells.

Approximately 4 days after fertilization, the cells will begin to specialize, forming a hollow sphere of cells called a blastocyst. A blastocyst consists of an outer layer of cells that will eventually form the placenta and other supporting tissues for fetal development, and the cluster of cells within the hollow sphere, called the inner cell mass, will go on to basically create all the tissues of the human body. The inner cell mass consists of cells that are pluripotent, because they can form virtually every type of cell in the human body, but not a placenta or the other supporting tissues. If a pluripotent cell were planted into a woman's uterus, it would not form a fetus.

Stem cells that are further specialized and give rise to cells that only have a particular function are called multipotent. Accordingly, a stem cell in the bone marrow would only be able to develop red blood cells, white blood cells, and platelets versus being able to produce a skin cell or a brain cell. Stem cells could potentially be prompted to specialize and used to replace or supplement diseased or ruined tissue. Stem cell research may hold the key to effective treatments or even cures for Parkinson's disease, Alzheimer's, spinal cord injury, burns, heart disease, osteoarthritis and rheumatoid arthritis, stroke, diabetes, paralysis, Tay-Sachs, dementia, HIV and AIDS, birth defects, cancer, organ failure and many other diseases.

Embryonic stem cell researchers most often use pluripotent stem cells from the inner cell mass of the blastocyst. Scientists can obtain these cells from excess embryos created by In Vitro Fertilization clinics with the informed consent of the donor couples. They can use fetal tissue from aborted fetuses with the informed consent of the donors, who make the decision to terminate their pregnancy independently. Finally, they can derive pluripotent stem cells from somatic cell nuclear transfer, a process in which the nucleus of a female's egg is removed and replaced with that of a somatic cell (or body cell, as opposed to a reproductive cell).

Because of the existence of adult stem cells and the method of creating embryonic stem cells, embryonic stem cells have become a source of contention among many sectors of society. Currently, scientists know that embryonic stem cells definitely will specialize into almost any tissue. The potential for adult stem cells is inconclusive with contradictory studies. While a few forms of adult stem cells have shown the ability to specialize, they often do not continue dividing, and adult stem cells have not been isolated from all tissues in the body. Adult somatic cells, including adult stem cells, may also contain DNA abnormalities.

A series of mutations in a certain type of genes that deal with controlling cell growth and correcting errors during DNA replication can lead to cancer. These mutations allow the affected cell to divide uncontrollably and develop tumors. Several cancers, including certain forms of breast cancer and colon cancer, are inheritable leading to a predisposition to a certain cancer in offspring. Every year about 500,000 Americans die from and approximately 1.3 million Americans are diagnosed with cancer. Cancer is the second leading cause of death for children under 15 years of age. Experts predict that by the year 2020, at least one person in every household will have some form of cancer. These same experts speculate that the number of people diagnosed with cancer will continue to rise drastically until a

cure is found. The only way to find this cure is to master an understanding of the many mechanisms that regulate cancerous cell growth.

The development of cancer and other diseases raises the question of nature versus nurture. Behavioral (or psychiatric) genetics strives to demonstrate that there is no such thing as nature versus nurture. Behaviors, memory, cognition, and personality traits are influenced by both environmental and genetic contributions. Geneticists monitor these contributions through the use of twin studies. Since identical twins are genetically identical, any deviations between the two physically and psychiatrically must be based solely on environmental influences. The extent of the deviation can be studied between numerous sets of twins to establish the degree of the correlation. Behavioral geneticists are studying an inheritable susceptibility to a number of psychiatric disorders, including schizophrenia, alcoholism, anxiety disorders, eating disorders, nicotine dependence, illicit drug use, and antisocial personality disorder.

The History and Use of DNA Technology in Forensic Science

Dr. Paul Ferrara, Ph.D., Director, Virginia Division of Forensic Science, continued the discussion of genetics by focusing on Virginia's use of DNA technology on crime scene evidence and the development and success of the country's first DNA databank. In May 1989, Virginia mandated that a DNA sample be taken from every convicted felon, establishing the first database against which crime scene evidence can be compared. The same year, Virginia created the first DNA databank for sex offenders in the United States. One year later, the Data Bank was expanded to include all felons, and in 1996 the database was expanded to include juveniles 14 years or older convicted of a felony. As of January 1, 2003, every person charged with a violent felony in Virginia was required to submit a DNA sample; however, those DNA records must be expunged if the suspect is acquitted or the case is dismissed.

Virginia's DNA Data Bank, the oldest and most comprehensive in the country, now contains the genetic profiles of more than 191,000 convicted felons. Today, the database is part of the Combined DNA Index System (CODIS), a system of computer databases designed by the FBI to store DNA profiles from convicted offenders as well as crime scene evidence. Any DNA profile developed from the evidence in a case with no suspects can then be searched against the databases, and possible investigative leads developed from any matching profiles in the database. CODIS searches can be conducted on the DNA profiles developed from biological evidence in cases where the identity of the perpetrator is unknown to the investigator. In theory, any biological material could yield a DNA profile if there are a sufficient number of cells from the perpetrator.

A CODIS "hit" can be made by a DNA profile from evidence in an unsolved case matching the DNA profile from a convicted offender. A "hit" can also be made between evidence in an unsolved case and another unsolved case, or a previously solved case. The fact that the DNA profiles matched is meant to provide an investigative lead to the detective or investigator, to help solve the particular unsolved case. He will need to conduct further investigations, to determine any possible involvement of the convicted offender of the perpetrator of the solved case, to the particular case in question. Even when there is not

an immediate match, an accurate genetic profile of the criminal helps eliminate innocent suspects and complements fingerprints as an identification method

Three years after it was first proposed, with approximately 1300 felons in the system, Virginia's DNA Data Bank received its first "cold hit". As the size of the database grew, so did the number of hits. On November 13, 2002, with approximately 190,000 samples in the system, the Division of Forensic Science announced the 1,000th cold hit identifying a potential suspect in a sexual assault that occurred in the city of Richmond in April 2001. On January 21, 2003, just three weeks after certain arrestees were included, the DNA database recorded its first arrestee hit. By the date of the Commission's first meeting, the DNA database already recorded its 1,200th hit, including its 12th arrestee hit. Dr. Ferrara explained that 82 percent of these hits would have been missed if the database were limited to only violent offenders, noting that 37 percent of violent crimes solved involved individuals with previous property crime convictions.

According to Dr. Ferrara, the Division of Forensic Science matched 894 offenders with crime-scene evidence in the first 1,000 hits and linked 106 cases to common perpetrators. These "hits" also included 38 cases from other states in which a suspect was identified through genetic information on file in Virginia's DNA Data Bank. As of March 2003, DNA database matches have helped solve 111 homicides, 244 rapes, 12 rape/homicides, nine malicious woundings, 14 carjackings, 58 robberies, 471 burglaries or larcenies, and 87 assorted other crimes, including kidnapping and arson.

The DNA databank program, which serves 400 local and state law enforcement agencies in Virginia from labs in Richmond, Fairfax, Norfolk and Roanoke, now applies to all convicted felons and all persons arrested for violent felony crimes or burglaries. For about \$6 million a year, 38 forensic biologists and assistants and 10 databank analysts completed 2,284 crime-scene DNA identification cases in 2002, up significantly from 450 in 1998. In the first four months of 2003, they already analyzed 710 crime scenes.

Dr. Ferrara concluded by presenting the challenges for the General Assembly to consider in the months ahead. Backlogs in processing crime-scene evidence delay positive identification and leave criminals on the street. There is no state appropriation to fund arrestee testing. Unlike the process for fingerprints, expunging arrestee DNA evidence and records is labor intensive and time consuming. Current federal law limits matching of DNA evidence to convicted offenders only, hence no federal money exists for expanded operations. More staff, facilities and training are needed to build on successes thus far.

DNA evidence does have its limits as illustrated by Dr. Ferrara's response to the member who asked about identical twins. He responded that DNA profiles look the same in the case of identical twins. In fact, the Commonwealth has 80 sets of identical twins incarcerated. While DNA can not distinguish identical twins, fingerprints can.

Until the development of DNA analysis, the fingerprints and eyewitness and victim testimony were the only means of identification. The development of conventional serology (blood analysis) helped, but was still of limited value: twenty percent of the population does not secrete blood type of Rh factor in

bodily fluids; the suspect is included in a large population of possible contributors; and mixed stains and destructive testing could mask key factors. DNA analysis is meant to supplement these other methods and increase accuracy while reducing costs. It is not meant to replace them.

B. HOMELAND SECURITY

On August 19, 2003, the Commission held an electronic meeting to explore issues and technology related to securing the homeland from natural and manmade disasters and the differences between the two. The Commission discussed these issues from federal, state and local perspectives and heard presentations on technologies available to help the respective jurisdictions meet their responsibilities. The meeting began with a report of a simulated biological disaster to illustrate the technologies available and complications present in trying to analyze a series of seemingly unrelated events and to determine whether a pattern exists or a coordinated attack is present.

Members and speakers participated by videoconference from three locations: the General Assembly Building in Richmond, Raytheon's offices in Reston, and Central Virginia Community College in Lynchburg. Members also participated via teleconference from Bristol. Guy Dubois, Vice President of Raytheon, welcomed the members from Reston and The Honorable John Hager, Assistant to the Governor for Commonwealth Preparedness, welcomed the members from Richmond and stressed the importance of the states in homeland security.

Terrorism and the United States

Mitchell Goldstein, Director of JCOTS, began the meeting by explaining that terrorism against the United States is nothing new. Over the last 25 years, our embassies in Iran (Tehran), Lebanon (Beirut), Kenya (Nairobi) and Tanzania (Dar-es-salaam) have been attacked, captured or destroyed. American military installations, diplomatic outposts and airplanes also have been attacked. All of these attacks took place overseas. However, during that time, the American homeland was attacked twice: the World Trade Center (1993) and the Murrah Building in Oklahoma (1995). The attack on the Murrah Building was called the worst attack on U.S. soil and it was perpetrated by an American.

Not since December 7, 1941, had a coordinated attack by foreign powers on U.S. soil been successful. That attack never reached the mainland. The landscape changed on September 11, 2001, when 19 terrorists hijacked four commercial airplanes from three U.S. airports and crashed two planes into the World Trade Center in New York City, one into the Pentagon and one in a field in Pennsylvania. When the smoke cleared, both towers of the World Trade Center were reduced to rubble and thousands were dead. America would never be the same. Ironically, while JCOTS was discussing terrorism, the U.N. suffered its worst terrorist attack when its headquarters in Iraq was attacked.

*A Biological Disaster Ensues
and the Department of Health Responds*

Dr. Lisa Kaplowitz, Deputy Commissioner for Emergency Preparedness and Response at the Department of Health, introduced the incident simulation. The simulation began with an increase in emergency room visits to numerous hospitals across the state of persons with cough, fever and shortness of breath. Chest x-rays were abnormal and many of these persons were admitted for treatment of pneumonia while others were sent home on oral antibiotic therapy. Most patients presenting with pneumonia were otherwise healthy adolescents or young adults. Since the number of persons presenting to any one emergency room was not large and it was the winter, the increase in pneumonia cases was not identified by health department monitoring or reported to the health department.

In this scenario, the situation worsened over the next 24 hours and otherwise healthy young people began to die. At this point, hospitals took blood cultures from the dead and discovered bacteria in the bloodstream consistent with a bioterrorism event. The hospital epidemiologist contacted the local health department to further evaluate the deaths and pneumonia cases. The district epidemiologist began interviewing those patients hospitalized with pneumonia and positive blood cultures, and contacted the Office of Epidemiology in Richmond to determine if similar cases were occurring in others areas of the state. Then, the hospital laboratory sent blood culture samples to the state laboratory (Division of Consolidated Laboratory Services – DCLS) for identification of the organism. In addition, the medical examiner was notified and autopsies were requested for the deaths that occurred. The Office of the Chief Medical Examiner contacted all medical examiner offices to determine if similar deaths were occurring in other parts of the state, either within or outside hospitals. Once the statewide scope of the pneumonia cases and deaths was clear, the Commissioner of the Virginia Department of Health recommended that the Governor of Virginia request the Strategic National Stockpile (SNS)¹ push-pack from the Centers for Disease Control and Prevention (CDC). The Virginia Department of Health began implementing plans with the Virginia Department of Emergency Management (VDEM) to manage the SNS upon arrival in Virginia. By the end of Day 2, VDH implemented plans for mass medication clinics statewide.

By Day 3, the results of the test from DCLS confirmed that the cause of the deaths was the organism that causes the plague. At this point, VDH had epidemiologists statewide interviewing adolescents and young adults with new onset pneumonia, as well as their family members. As family members and other close contacts of the initial pneumonia cases began presenting to hospitals and physician offices with respiratory symptoms and more deaths were reported statewide, state officials looked for a common event or location associated with most patients. State officials also contacted surrounding jurisdictions and states to determine the full extent of the epidemic.

¹ The SNS is a national repository of antibiotics and medical/surgical supplies and products designed to supplement and re-supply state and local jurisdictions in the event of a national emergency at anytime, or anywhere within the U.S. or its territories.

The Virginia Department of Health (VDH) plays the key role in the initial recognition and response to a biologic event – before it is even known if there has been an intentional release of an organism. Dr. Kaplowitz was joined by Dr. John Marr, Director of the Office of Epidemiology, and Dr. Marcella Fierro, Chief Medical Examiner, to further discuss this role. An intentional biologic release is very different from a chemical release or explosion in a number of ways. First, there is no "site" for the event - cases appear at multiple sites with many different areas affected at one time, even if there was only one release in one place. Second, there is no one "incident", consequently the term Uniform Command is more appropriate than "Incident Command." Through the work of epidemiologists statewide, VDH plays the key role in identifying that an event has occurred. The epidemiologists interview those affected to determine what actually occurred. VDH would work with the state lab, hospitals and health care providers to determine the organism, disease, appropriate treatment and preventive care or treatment. Third, any situation with unexplained deaths would likely also involve the Office of the Chief Medical Examiner, part of VDH. Finally, VDH would work very closely with the communication and command structure of the hospitals in Virginia.

***The First Responders:
Fire, Ambulance, Law Enforcement***

While VDH performs its analysis, the first responders converge on the scene and establish an “Incident Command System,” a structured system for managing emergency incidents to facilitate multi-agency, multi-disciplinary, and multi-jurisdictional cooperation. Depending on the type of disaster, first responders might include fire, ambulance and law enforcement. Adam Thiel, Executive Director of the Department of Fire Programs, addressed the role of the fire departments and the Incident Command/Incident Management System processes. Mr. Thiel is leading the task force to design and field the statewide incident command/management system that will tie into the new National Incident Management System called for by Homeland Security Presidential Directive 5. This integration is an essential step in understanding the organizational connections as a precursor to talking about how technology can empower response operations.

James Chandler, Executive Director of the Tidewater Emergency Medical Services Council, explained the role of medical personnel in responding to a biological disaster. T. Jeff Vining, Executive Director of the Law Enforcement and Corrections Technology Advisory Council, described the challenges and capabilities of local law enforcement to a biological disaster.

Technology can play a key role in assisting first responders to better manage and analyze a situation. Bill Shinar, Coordinator of Virginia Geographic Information Network (VGIN), explained the geographic information system (GIS), which provides valuable information about the geography, wind currents and other information vital to first responders. GIS helps first responders and others at the command center predict the spread of a pathogen based on weather conditions and topography, locate victims and mitigate damage.

David Gellen, Manager of Raytheon’s Emergency Patient Tracking System, and Luis Candelario, Raytheon's Regional Manager of the First Responder Mobile Vehicle, described two other such

technologies available to first responders. The emergency patient tracking system and first responder mobile vehicle assist those on the scene in securing, triaging and evacuating victims to various hospitals based on the severity of the injuries and available resources. Using the tracking system, patients can be monitored as they are treated to final disposition, which is available through the hospitals and other public agencies. The mobile vehicle can provide access to information through various sources, including the Internet, to begin the treatment and monitoring processes at the scene and manage them through final disposition.

The State Responds

Not only do first responders and VDH play key roles, but also other state agencies. Michael Cline, State Coordinator for the Virginia Department of Emergency Management (VDEM), illustrated how local, state and federal agencies interact to manage a crisis by consolidating information, coordinating communications, and aiding local governments. Mr. Cline explained while localities can request aid resources from the state, the state has no budget for disaster response. Instead, when the Governor declares a state of emergency, he is empowered with the most extensive authority of any governor in the U.S. VDEM takes the lead in an emergency operations center (EOC), a local, state and regional joint operations center established near the epicenter of the disaster or, in case of a terrorist attack, at the seat of government. Virginia also established a Public Inquiry Center at the Department of Motor Vehicles Headquarters to respond to citizens in the event of a disaster.

Lt. T. Stephen Goff, Commander of the Counter-Terrorism and Criminal Interdiction Unit (CCI) for the Virginia State Police, explained the evolution of CCI and its responsibility of being the core State Police component of the seven regional response teams. These teams respond to acts of terrorism and other disasters. Their role is two-fold: (i) provide support and assistance as needed to local and other emergency organizations, and (ii) conduct criminal investigations, if the event ultimately becomes a crime scene.

Response to the situation also involves collecting information from the multiple incidences into one repository and augmenting it with pre-existing information from local, state and federal databases. David Pendergrass, Sales Manager with Mitem, briefed JCOTS about how existing systems can be connected using non-invasive integration. He encouraged those present to view systems integration as a bridge between different systems rather than a technical barrier to be overcome. He further explained how systems could be integrated without purchasing more equipment or completely replacing existing equipment. Joining him, Belchior Mira, Director of Information Technology for the Department of Human Resource Management, demonstrated how Mitem's system integrated multiple databases into one seamless, web-based system. This integration reduced the time to update information, the number of errors and the total cost of operating the system. Additionally, once the information is gathered and compiled, it must be analyzed for common characteristics. According to Steve Freel, Raytheon's Manager for Intelligence and Information Systems, imbedded within all reports are possible clues of a coordinated attack. He demonstrated a system that can analyze documents for regularly occurring words in multiple languages.

The technology presented throughout the meeting demonstrated an ability to provide prompt and accurate communication of a problem, analysis of the facts, diagnosis of the problem and communication to warn others. Accomplishing all of this demands that multiple parties using diverse technologies be able to communicate with each other. Getting that level of interoperability requires planning, training and equipment. Robert T. Forrest, President of CTA Communications; Luis Candelario, First Responder Regional Manager for Raytheon; and Fared Adib, Director of Public Safety for Nextel Communications, discussed the issues surrounding the interoperability of communications systems.

The Human Factor

Finally, any disaster has a human face, the people who are affected and whose lives are disrupted. A disaster, whether it is biological like the day's simulation or a single incident like the attack on the World Trade Center in New York, can disrupt normal communication channels for the public. Michael Lasky, Managing Director of Stargazer, demonstrated a web-based system that enables families, companies and individuals to develop their own emergency communications and operations plans to prepare for and respond to emergencies.

C. SCIENCE AND TECHNOLOGY AROUND THE COMMONWEALTH - CHARLOTTESVILLE

On Wednesday, September 10, 2004, the members and staff of the Joint Commission on Technology and Science toured three Charlottesville-area facilities to learn more about the new technologies and applications being researched and developed in the region.

Insurance Institute of Highway Safety's Vehicle Research Center, Ruckersville, VA

Steve Oesch, Senior Vice President, VRC, showed Commission members the Insurance Institute of Highway Safety's Vehicle Research Center (VRC). Activities conducted at the VRC include vehicle and component testing, including fully instrumented crash tests (where a vehicle on a sled is crashed for research purposes), plus in-depth study of serious, on-the-road crashes. Scrutinizing the outcomes of both controlled tests and real collisions gives researchers a better idea of how and why occupants get injured in crashes. This research, in turn, leads to vehicle designs that reduce injuries. This is the VRC's purpose. Commission members viewed a crash test in person, examined many previously crash-tested vehicles, and learned about various aspects of automotive safety.

MRSEC Center for Nanoscopic Materials Design

Materials Research Science and Engineering Centers (or MRSECs) are a network of centers located at academic institutions throughout the United States, funded by the National Science Foundation, to undertake materials research of scope and complexity that would not be feasible under traditional funding of individual research projects. The University of Virginia's MRSEC Center of Nanoscopic Materials Design is working to define new directions in nanoscale design. Prof. Robert Hull, Charles Henderson Professor of Engineering, University of Virginia, briefed Commission members on the

scientific aspects of nanoscopic design and the possible applications of materials produced utilizing nanoscopic design. Commission members toured the Center's facilities, including an atomic scale imaging and fabrication laboratory, semiconductor cleanroom, and directed vapor deposition laboratory.

Virginia Transportation Research Council

Operated under the terms of a joint agreement between the University of Virginia and the Virginia Department of Transportation, the Virginia Transportation Research Council (VTRC) is one of the nation's oldest state-sponsored centers for the study and development of advanced transportation-related engineering technology and improved management and operational practices. Gary Allen, Chief Technology Research & Innovations Officer, VTRC, and Bill Kelsh, Acting Director, VTRC, provided Commission members with a history of the VTRC and an overview of the research conducted by the Council. Commission members toured the VTRC's facilities, where research in five broadly grouped research areas is conducted: materials; structures, pavements, and asset management; mobility management and environment; safety, planning, and legal; financial and organizational studies; and, knowledge management and technology transfer.

D. YEAR IN REVIEW: FINAL MEETING

The Joint Commission on Technology and Science (JCOTS) held its final meeting of the 2003-2004 interim on December 2 to receive reports from the Interim Chief Information Officer and the President of the Center for Innovative Technology; receive reports from the advisory committees; adopt the final report for the 2003 interim; and finalize the Commission's legislative agenda for the 2004 Session.

An Anniversary of Innovation

After the Chairman called the meeting to order, the Director took a moment to inform the Commission of historic innovations in technology and science that celebrate their birth and 10th, 25th, 50th, 75th and 100th anniversaries in 2003.

Two hundred years ago, chemist John Dalton put forth the theory of the atom.

One hundred years ago, the foundation of electric lights in the home was born. Charles Curtis developed the steam turbine generator, which for the first time allowed electricity to be produced inexpensively. It generated 5,000 kilowatts and was then the most powerful plant in the world. It marked a transition to turbine generators that required one-tenth the space and weighed one-eighth as much as reciprocating engines of comparable output. The invention of ductile tungsten, a much improved filament material, sparked the development of the modern tungsten filament incandescent light bulb, the light bulb that we know today, by the General Electric Company and William Coolidge. Coolidge made the breakthrough, preparing a ductile tungsten wire, by doping tungsten oxide before reduction. The resulting metal powder was pressed, sintered and forged to thin rods. Very thin wire was then drawn from these rods.

The mass transportation industry took flight ... literally. Orville and Wilbur Wright and their mechanic, Charlie Taylor, built an engine and added it to a flyer with a wingspan of about 40 feet. On the morning of December 17, 1903, in 27-mile-per-hour winds, they launched the flyer in Kitty Hawk, N.C., with Orville in the pilot's seat. He flew 12 seconds. Two more trials did about the same. At noon, a fourth run by Wilbur lasted 59 seconds and traveled 852 feet.

On the ground, Henry Ford founded Ford Motor and began making the Model A. Five years later, he built the Model T, dubbed "the car for the common man." Mary Anderson was granted her first patent for a window-cleaning device. Her invention could clean snow, rain, or sleet from a windshield by using a handle inside the car. Her goal was to improve driver vision during stormy weather. She invented the windshield wiper, which became standard equipment on all American cars by 1916. Bill Harley and Arthur Davidson modified a bicycle, attached their engine and unveiled their first production motorcycle: Harley-Davidson Motor Co. was born.

Other inventions that would have an impact on the general population were crayons and an automatic bottle-making machine. Edwin Binney and Harold Smith came up with an invention that would have an enormous impact on childhood: crayons. The first box contained eight Crayola crayons - black, brown, blue, red, purple, orange, yellow, and green - and sold for a nickel. The word Crayola came from the French words for chalk (*craie*) and oily (*oleaginous*). Michael J. Owens invented the first automatic bottle-making machine, which led to the formation of the Owens Bottle Company.

Seventy-five years ago, Sir Alexander Fleming discovered the antibiotic penicillin accidentally. He was culturing bacteria and left the petri dish lid ajar as he went away. When he returned a mold had killed the bacteria in the same dish. Ten years later scientists extracted penicillin from the bacteria. Not only did health care see a major innovation in this year, but also entertainment, safety and communications. Walt Disney introduced Mickey Mouse in "Steamboat Willie," the first sound cartoon to attract widespread notice and popularity. The first musical synthesizer invented by RCA. David Warren invented the black box - flight recorder. Texas Instruments invented the transistor radio.

Fifty years ago saw major scientific revolutions in health and the very meaning of life. American James Watson and Englishman Francis Crick unraveled the mystery of the human genetic coding called DNA. They discovered how the genes for recreating life were arranged in a double helix and the sequence that creates the proteins that give us our genetic traits. Dr. John H. Gibbon performed the first successful open heart surgery in which the blood was artificially circulated and oxygenated by a heart-lung machine. This new technology, which allowed the surgeon to operate on a dry and motionless heart, greatly increased surgical treatment options for heart defects and disease.

Twenty-five years ago, more major scientific revolutions in health made living and life itself possible. The artificial heart Jarvik-7, invented by Robert K. Jarvik, was designed to function like the natural heart. Unlike a natural heart, the artificial heart needed an external source of energy. In 1982, a team led by William DeVries of the University of Utah implanted the Jarvik-7 into Barney Clark. Due to medical complications, Clark survived the implantation for only 112 days. The longest time period

supported by the Jarvik-7 was 620 days by Mr. William Schroeder. Louise Brown, the first “test tube” (in vitro fertilization) baby, was born in England. The first IVF baby was conceived in the United States in 1981.

Ten years ago, a breakthrough in high-speed computing would expand desktop computing. Intel introduced the Pentium processor, which uses 3.1 million transistors to perform up to 90 million instructions per second. By comparison, the first microprocessor, the 4004 microcomputer set (the term "microprocessor" was not coined until later), which was formally introduced at the end of 1971, packed 2300 transistors and executed 60,000 operations in one second. Uses include - traffic light controller; interactive toys; radio modem; satellite data transmission; automobile digital navigation system; car ignition and fuel injection control; printers; professional sound mixing deck; locomotives (microprocessor distributes electrical power throughout engine); interactive video touch screen; keyboard for terminal; hard disk drive; energy management system; process controller (microprocessor controls manufacturing process variables such as temperature, pressure, or flow); fish finder; electronic organ, guitar, synthesizer; helium detector; exercise equipment; electronic dart game; scientific scale; marine motor clutch controller; starting block sensors (to guarantee fair starts in track and field races); point-of-sale terminal; cellular phone; cable TV decoder; fax machine; satellite receiver; medical equipment; patient locating and alarm system; vending machines; electronic carpenter's level; copier; bar code label printer; robot arm; cheetah breeding (small chips implanted under the animals' skin contain genetic information that helps scientists avoid inbreeding).

The innovations continue today in 2003. The entire human genome sequence is finished two years ahead of schedule. The first leg of the National Lambda Rail was lit between Chicago and Pittsburgh, connecting the Pittsburgh Supercomputing Center to the Extensible Terascale Facility, the backplane network for the National Science Foundation's Teragrid project, through the StarLight Facility in Chicago. A supercomputer made from 1,100 off-the-shelf Apple Macs at Virginia Tech now ranks third among the world's 500 fastest supercomputers, many of which handle with ease 1 trillion calculations per second. The Terascale Cluster computer, named "X" for its 10 teraflops speed, conducts 9.6 trillion calculations per second, zipping along with 2,200 IBM microprocessors not unlike those found in high-end consumer desktop computers.

Where the innovations will take us tomorrow, no one knows, but it is sure to be a fascinating ride if the past is any indication.

Interim Chief Information Officer

Section 2.2-2007 of the Code of Virginia requires the Chief Information Officer (CIO) to report annually to JCOTS on the use and application of information technology by state agencies and public institutions of higher education to increase economic efficiency, citizen convenience, and public access to state government. Secretary George C. Newstrom as the Interim CIO made the report to the Commission and focused on the implementation of the Virginia Information Technologies Agency (VITA).

Center for Innovative Technology (CIT)

Section 2.2-2221.1 of the Code of Virginia (enacted in 2001) requires the president of the Center for Innovative Technology to report annually to JCOTS regarding a review of the Center's initiatives and projects, its work plan for the year and the expected results therefrom, and an overview of the results that it has achieved to date. Mr. Peter Jobse, CIT's current president, provided the report.

CIT set three major goals for 2003 that would have a combined impact of \$266.8 million on the Commonwealth's economy. CIT's first goal was to generate investment in technology research at colleges, universities and small businesses by attracting federal research and development (R&D) dollars with an expected impact of \$56.6 million. Its second goal was to accelerate the commercialization of intellectual property from universities and federal laboratories resulting in licensing revenue and new company formation with an expected impact of \$15 million. CIT's third goal was to fulfill the role of a technology extension service to grow jobs and competitiveness in all areas of the Commonwealth.

According to Mr. Jobse, the most recent audit by the Commonwealth's Auditor of Public Accounts reveals that the Center met and exceeded its goals by 19 percent. The first goal generated an impact of \$62.5 million; the second goal, \$14.7 million; and the third goal, \$240.3 million. CIT generated an impact of \$317.5 million using a general fund appropriation of only \$7.8 million (down from an initial appropriation of slightly more than \$10 million).

Mr. Jobse explained that CIT's most difficult days are ahead as it undergoes a transformation from an appropriations-based, quasi-agency identity with \$7.8 million per year to a revenue-driven, company identity. This transformation necessitated by a phase-out of all funding from the Commonwealth will unavoidably lead to a change in mission. Currently, CIT's mission is to accelerate Virginia's next generation of technology and technology-based companies. To satisfy its current legislative mandate, CIT set its 2004 strategic goals to include expanding Virginia's technology assets into "world-class research hubs" and make Virginia a global leader in the development of entrepreneurial technology ventures.

To achieve its goals, Mr. Jobse explained the actions that CIT must take. To expand Virginia's technology assets into world-class research hubs, CIT has created and is operating the Virginia Institute for Defense and Homeland Security (IDHS); is identifying opportunities to accelerate nanotechnology research in Virginia; and is identifying opportunities to accelerate life sciences research in Virginia. The IDHS is currently working on contracts for research in miniature spy equipment (e.g., the Dragon Runner, a truck; and the Dragon Eye, a plane). For nanotechnology, CIT is investing in workforce training, education, and the research infrastructure, the foundations necessary for the industry. Research themes will focus on biomedicine, electronically functional nanomaterials and emerging technologies yielding applications in national defense, homeland security, civilian infrastructure and biomedical technology. To make Virginia a global leader in the development of entrepreneurial technology ventures, CIT is identifying and accelerating opportunities for Virginia's small technology business to obtain federal grants and contracts, providing funds and facilitating private funding for very early stage technology companies, operating a world-class regional support service for Virginia's small technology

businesses and attempting to realize the highest percentage of broadband deployment in the United States.

CIT has moved toward its goals by using \$108,000 to complete five new contracts with the federal government for a total of more than \$3.5 million. The Center has also assisted its current clients in winning grants, awards and venture capital funding. Virginia still has a long way to go and now must overcome another obstacle. Virginia is phasing out its investment in CIT by FY 2008. To replace the lost state appropriations, CIT will have to find \$20 to \$30 million in funding from other sources.

The only other source of revenue is the federal government. The one catch is that federal rules prevent CIT from charging the institutions to recover costs associated with marketing or preparing proposals. This money will have to come from other sources currently unknown. In addition, receiving federal funds usually requires spending state funds or as Mr. Jobse explained "It takes money to make money." As the Commonwealth phases out appropriations to CIT, it will be forced to cut funding and support for a variety of programs, including all regional offices, until CIT becomes a nonprofit research entity competing with other nonprofits for the same money.

While Department of Defense R&D obligations, the bulk of Virginia's federal R&D obligations, to Virginia's universities have grown slowly over the past several years, these obligations only amount to a little more than \$40 million. Compare that to obligations from the National Science Foundation to California (\$257 million), Maryland (\$298 million) and Pennsylvania (\$166 million). Virginia must continue to chase federal funding if it wants to remain competitive. Mr. Jobse cautioned that federal money comes with an expectation that states will invest some of their money as well. New York alone has invested more than \$450 million in the nanotechnology, the next lucrative area. California (\$100 million), Arizona (\$100 million), Illinois (more than \$50 million), Georgia (\$50 million) and Pennsylvania (close to \$50 million) round out the top six.

Mr. Jobse illustrated how critical this investment is to the economy of Virginia with a few key statistics. For the first time, in 2002, Virginia lost more technology businesses than it added, ending with 19,000 fewer technology jobs (a seven percent drop), a decrease of \$0.5 billion in technology exports (19 percent) and a \$578 million drop in venture capital funding (59 percent). The trend is continuing as companies leave Virginia looking for venture capital, as EyeTel did, or infrastructure support, as Real User Corp. did.

Office of the Chief Medical Examiner

Dr. Marcella Fierro, the Commonwealth's Chief Medical Examiner, discussed the information compiled by her office and its current technology needs. Dr. Fierro also explained the unique nature of the Office of the Chief Medical Examiner (OCME) in Virginia and the significance of the information obtained.

Virginia became one of the first states to institute a statewide medical examiner system in 1946. In that year, the General Assembly of Virginia abolished the office of Coroner's Physician and appointed a Chief Medical Examiner. Four years later, in 1950, the OCME became a division within the Virginia

Department of Health. Virginia currently has the largest statewide system in the country and, therefore, is useful to researchers statewide and nationwide.

In Virginia, medical examiners conduct a medicolegal death investigation, serving as the principal case investigator in their locality for deaths falling within their jurisdiction and statutory authority. The OCME currently supports more than 400 local medical examiners, who receive the initial notification of death and determine if the death should come under the jurisdiction of the medical examiner. Local medical examiners may examine and sign the certificate of death on medical examiner cases or, using professionally established guidelines, refer certain classes of cases for more intensive death investigation and medicolegal autopsy.

Virginia's medical examiners and forensic pathologists are committed to public safety and to public health. To promote public safety, they testify to their findings in civil and criminal courts throughout the Commonwealth. They advance public health through their investigations of deaths that present a hazard to Virginia's citizens, such as emerging infections and bioterrorism. Public health is also supported through a well-established surveillance and fatality review program, one of a few forensic epidemiology units in the nation. The State Child Fatality Review Team, as well as maternal mortality review and intimate partner homicide surveillance projects, are all located within the OCME. In 2002, Virginia became a demonstration site for the National Violent Death Reporting System and was the only medical examiner system in the country to get a grant for this purpose.

The OCME utilizes a homegrown database developed in the 1980s to receive and use case data retrospectively. Data items collected include the usual demographics but also include disease and injury data useful for bioterrorism surveillance, disease and injury tracking, child death review, maternal mortality, family and intimate partner violence and the National Violent Death Reporting System. OCME data is a measurement of health and safety of the citizens. While useful during these past years, it has major deficiencies in today's environment that requires tracking cases and producing useful data in real time. In addition, it is unable to store digital photos, radiographs, lab results or receipts that are integral components of cases. The OCME needs a system that integrates and stores data from multiple sources in real time and gives the ability to access and track data throughout an investigation. Such a system would enable compilation of data and analysis in ways that are impossible under the current system. The dead will truly be able to speak and help the living with the information that their cases can convey.

Advisory Committee on Consumer Protection

The Advisory Committee on Consumer Protection was charged with reviewing and recommending changes to the consumer protection laws of the Commonwealth and their application to electronic commerce transactions.

The Committee received briefings on the consumer protection services and resources offered by the Office of the Attorney General and the Office of Consumer Affairs, the agencies that provide the two main avenues for consumer redress in Virginia. The Committee also learned about efforts to address

confidential information in court documents and electronic filings. Among those efforts are the Model Written Policy Governing Access to Court Records and the Uniform Real Property Electronic Recordation Act. The Commission will be addressing these issues for many years to come.

As part of its study, the Committee focused on several bills referred to the Commission by the House Committee on Science and Technology during the 2003 Session and continued until the 2004 Session. The Committee discussed House Bill No. 1887 (Patron – May) on workplace privacy and House Bill No. 2564 (Patron – Scott) on electronic credit card transactions. Building upon the General Assembly’s efforts to limit the distribution of confidential information in court records, the Committee also discussed a proposal to restrict social security numbers on land records.

With several concerns raised about the workplace privacy proposal and given the current efforts by other organizations, the Committee declined to make any legislative recommendations on this topic. The proposal on social security numbers on land records met a similar fate for the same reasons. However, after discussing the credit card transaction issue and receiving public comment, the Committee recommended an alternative to HB 2564 that applied the proposal to all circumstances regardless of the medium, but limited its application to the claims and defenses of the Fair Credit Billing Act.

Advisory Committee on Cyberlaw

The Advisory Committee on Cyberlaw was charged with reviewing the laws of the Commonwealth regarding their applicability to the information age and beyond, and recommending appropriate changes. The Committee focused on two major issues, the Uniform Computer Information Transactions Act (UCITA) and identity theft.

UCITA represents the first comprehensive uniform computer information licensing law. The Act uses the accepted and familiar principles of contract law. It sets the rules for creating electronic contracts and the use of electronic signatures for contract adoption, thereby making computer information transactions as well grounded in the law as traditional transactions. Since Virginia enacted UCITA in 2000, the Nation Conference of Commissioners on Uniform State Laws (NCCUSL), one of the original drafters of the law, has amended the underlying uniform law. In fact, several of NCCUSL’s recent amendments to UCITA arose from changes Virginia made as a result of the work of JCOTS.

Among the major provisions of the recommendations were a provision specifically excluding insurance services transactions from the scope, expanding the application of consumer protection statutes to licenses for computer information and the right to engage in lawful public comment from mass-market licenses to all licenses for computer information in its final form that is made generally available. Finally, open-source software is expressly not covered by the Act if only copyright permission is given and is not part of a contract; if there is a contract, there are no implied warranties if there is no commercial gain from the transaction.

To address a significant and costly but simple solution to one factor of identity theft – credit card fraud - the Committee voted to speed up compliance with the restrictions on printing payment device numbers

and expiration dates on electronic receipts and expanding the restriction to include printed receipts. However, to address an issue created when Congress subsequently enacted a similar restriction for electronic credit card and debit card receipts, the recommendation was amended to cover payment devices in general. This way, a change in the federal law will not require amending state law again to address this issue. While the Committee did not adopt any other recommendations on this issue at this time, it did recommend that the Commission continue studying privacy issues.

Additional Commission Legislation on Privacy

Building on its work over the last couple of years, the Commission voted on two additional legislative proposals designed to limit the flow of confidential information. The first proposal would amend the Government Data Collection and Dissemination Practices Act by limiting the appearance of unique identifying numbers on public records. The legislation would prohibit filing or creating public records that contain more than the last four digits of any unique identifying number, unless the use is required by law or the record is exempt from disclosure. A unique identifying number is as any alphabetic or numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The legislation excludes from this definition unique identifying numbers that are assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Preparers and filers would have the responsibility of certifying compliance.

The second proposal would amend the Personal Information Privacy Act by restricting the use of social security numbers in both the public and private sectors. Among other things, the proposal would prohibit making the social security number available to the general public, requiring consumers to provide the number to access goods or services unless required by law, and printing the number on an identification card. In addition, the proposal would require that insurance plans for state employees assign an identification number that is not a covered employee's social security number. Finally, the proposal would amend the Virginia Consumer Protection Act to prohibit a supplier from using a consumer's social security number when the consumer requests that his driver's license number be used. While current law requires that a supplier only provide an alternate number if the consumer so requests in writing, this proposal would provide consumers with another option other than providing their social security numbers and writing to the supplier for a new number.

Public comment on both proposals was mixed ranging from a request that the proposals further restrict confidential information to concerns that the proposals are too restrictive. The purpose of the proposals is to limit the general availability of key pieces of information used in identity theft while allowing their legitimate uses. The Commission unanimously voted to adopt these measures.

Advisory Committee on Integrated Government

The Advisory Committee on Integrated Government was charged with exploring the issues raised by the transformation of government in the digital age. The Committee continued focusing on the state of

information technology (IT) procurement in the Commonwealth, including the newly created Virginia Information Technologies Agency (VITA) and Information Technology Investment Board (ITIB).

The Committee received briefings on the implementation of VITA, including updates from the Secretary of Technology, VITA staff, Joint Legislative Audit and Review Commission staff, and JCOTS staff. The Committee also received briefings on the state of IT procurement in the Commonwealth, including updates on VITA's procurement reform efforts, and on Virginia's spend analysis consulting services contract. VITA's new procurement manual incorporated several recommendations made by last year's Advisory Committee on Integrated Government.

Finally, the Committee discussed JCOTS' efforts to establish two regularly scheduled two-hour meeting times every month during the interim to make videoconference facilities available to public bodies in the legislative branch. These efforts arise in response to the Commission's decision in December 2002 to establish such meeting times as part of the Pilot Project, an exemption to the Virginia Freedom of Information Act that applies to meetings held via videoconference. The Pilot Project is due to sunset on July 1, 2005. The Committee made no recommendations at this time, though the Commission will continue to monitor these efforts.

Advisory Committee on the Hard Sciences

The Advisory Committee on the Hard Sciences was charged with evaluating the economic environment and capabilities of the Commonwealth to contribute to and benefit from the growth of new technologies and industries. The Committee focused on the infrastructure and resources necessary for high technology research projects and commercialization of those efforts and specifically focused on Internet2 as directed by HJR 653 (2003), distance learning and the Virginia Biotechnology Initiative.

The Committee learned that Internet2 is being replaced by the National LambdaRail (NLR), a system that will exclusively controlled by the research universities and private sector technology companies that are part of the NLR initiative. To join this effort, Virginia Tech, the University of Virginia, Old Dominion University, Virginia Commonwealth University, George Mason University, the College of William and Mary, and associate member Oak Ridge Associated Universities formed the Mid-Atlantic Terascale Partnership (MATP). On behalf of MATP, the Virginia Tech Foundation is underwriting a five-year, \$5 million commitment to ensure the location of an NLR node in Washington, D.C.

The briefings from the Virginia Biotechnology Initiative (VBI) and Virginia Educational Ventures (VEV; the group that addressed distance-learning initiatives) included a number of recommendations. VBI's goal is to form an integrated long-term strategy, designed to place Virginia among the top 10 states in Biotechnology by 2010. To accomplish this objective, VBI proposed creating and funding an organization to bridge the gap between academia and business. Such an organization would help researchers and businesses commercialize intellectual property developed at the research institutions while allowing each to advance its different goals. VEV recommended creating and funding an authority to encourage, through coordination and financial support, new educational initiatives that address educationally underserved constituencies in technologically innovative and cost efficient ways.

Because of the extensive collaboration of the research institutions on NLR, the Committee took no action other than to support their efforts. In addition, the Committee endorsed the recommendations of VBI and VEV, while taking no position on its budget requests.

Discharge of the Advisory Committee Members

As the final order of business, Chairman May thanked and discharged the members of the advisory committees. He thanked everyone for their hard work and dedication to the science and technology issues facing the Commonwealth.

III. ADVISORY COMMITTEE REPORTS

A. CONSUMER PROTECTION

Senator Ticer, Senator Bolling and Delegate Christian, co-chairs

1. Charge

To review and recommend changes to the consumer protection laws of the Commonwealth and their application to electronic commerce transactions.

2. Summary

The Advisory Committee on Consumer Protection met four times during the 2003 interim: on August 5, September 16, October 21 and December 2. During its meetings, the Committee received briefings on and discussed Internet-related consumer protection resources available to citizens of the Commonwealth, state agency use of accumulated databases, the Model Written Policy Governing Access to Court Records, the Uniform Real Property Recordation Act and selected consumer protection legislative proposals.

Office of the Attorney General's Internet-Related Consumer Protection Resources

Lisa Hicks-Thomas, Assistant Attorney General, Director, Computer Crime Unit, discussed three specific consumer protection areas her office addresses: unsolicited bulk e-mail or "spam," child pornography, and identity theft. During the 2003 Session, Attorney General Kilgore endorsed, and the General Assembly enacted, HB 2290 (Patron - Devolites) / SB 1139 (Patron - Stolle), which amend Virginia's Computer Crimes Act by creating a separate and distinct penalty for using a computer to violate certain obscenity laws and adding forfeiture provisions to the Act. The bills also consolidated the provisions for transmitting unsolicited bulk electronic mail into a new statute and increased the penalties for substantial violations. The bill amended the penalties for other violations as well as establishing the minimum penalty as a Class 1 misdemeanor, increased to a Class 6 felony under certain circumstances. All violations of the personal trespass by computer statute were increased to a minimum Class 6 felony.

Additionally, the legislation establishes a new method for calculating statutory civil damages for a person injured from any violation of the Computer Crimes Act, based on the number of complaints, degree of culpability, amount of economic gain, and prior history.

Ms. Hicks-Thomas explained that this legislation was necessary because a large portion of the Internet's infrastructure and the world's largest Internet service provider are located in Virginia. She noted that the legislation creates a new, separate provision in the Code of Virginia making spam a felony if transmitted via fraudulent means. Most complaints received by the Office of the Attorney General involve obscene spam, which typically involves fraud. In addition to the basic annoyance spam causes, it also has definite negative economic impacts, such as causing businesses to operate less efficiently in general and, in particular, forcing Internet service providers and related enterprises to devote significant resources to addressing spam.

During the 2003 Session, Attorney General Kilgore endorsed, and the General Assembly enacted, HB 2457 (Patron - McDougle) / SB 1153 (Patron - Stolle), which requires the Office of the Attorney General, in cooperation with the Department of State Police, to maintain a Child Pornography Registry that includes images of sexually explicit visual material presented as evidence and used in a conviction for possession, production, publication, sale, financing or intent to distribute, sexually explicit items involving children. Unauthorized use of the Registry is a Class 6 felony. The bill increases the penalties for child pornography possession to a Class 6 felony (from a Class 1 misdemeanor) and second and subsequent offenses to a Class 5 felony (from a Class 6 felony). Since the U.S. Supreme Court's 2002 decision in *Ashcroft v. Free Speech Coalition*, holding that the First Amendment protects virtual child pornography, prosecutors have feared that child pornographers will escape conviction by alleging that their images were computer generated and did not involve real children. The purpose of the Registry is to combat this problem by helping law enforcement and prosecutors identify the actual victims of child pornography. If law enforcement agencies are able to match an image found in the possession of a suspected child pornographer with an image of a child from the Registry, they will have proof that a real child was used to create the image and that the person possessing it has violated the law. The Registry will be available to law enforcement agencies on January 1, 2004.

Ms. Hicks-Thomas also briefed the Committee about the Attorney General's Identity Theft Passport initiative, the first of its kind in the nation. Identity theft is one of the fastest growing crimes, affecting one in five people every year. Additionally, it costs businesses billions of dollars annually. The Attorney General's Identity Theft Passport is available to any Virginian who has filed a police report claiming that he is a victim of identity theft or has obtained a court order expunging his record as a result of identity theft. The Identity Theft Passport is a card that an identity theft victim can carry and present to law enforcement or other individuals who may challenge him about his identity. The Identity Theft Passport is designed to provide notice to law enforcement officials and businesses that the person who holds it may be the victim of identity theft. The Passport does not create a requirement to take any action.

Office of Consumer Affairs' Internet-Related Consumer Protection Resources

The Office of Consumer Affairs' Andy Alvarez, Program Manager, Frank McCormick, Manager of Investigations, and Stuart Ashby, Manager of the Counseling and Intake Unit, briefed the Committee about the role their office plays in protecting Virginia's consumers in Internet-related situations. Part of the Commonwealth's Department of Agricultural and Consumer Services, the Office of Consumer Affairs (OCA) provides protection to consumers against fraudulent, deceptive, and illegal practices in the marketplace. The OCA is authorized by law to serve as the central clearinghouse for the collection, evaluation, investigation or referral of consumer complaints. The OCA refers complaints to other agencies that are outside of its authority.

Typically, the OCA receives approximately 5,000 formal complaints a year. In 2001, the OCA received 221 complaints related to electronic commerce; the number of complaints increased to 233 in 2002. However, Mr. Alvarez estimated the OCA would receive 340 such complaints in 2003, a significant increase over the previous two years. The nature of electronic commerce complaints falls into three broad categories: consumer disputes with an Internet service provider, consumer disputes with an online auction site, and consumer complaints regarding unsolicited e-mail, or spam. Notably, the OCA has not received any complaints regarding violations of Virginia's Uniform Electronic Transactions Act (UETA) or Uniform Computer Information Transactions Act (UCITA).

The Virginia Consumer Protection Act (VCPA) (§ 59.1-196 et seq.) seeks to promote fair and ethical standards of dealings between suppliers. The VCPA applies to transactions where a product or service is intended for personal, family or household purposes; however, six areas are exempted, including financial institutions, banks, and insurance companies. Generally, the VCPA prohibits practices such as misrepresentation, failure to disclose conditions, charges and fees, and violation of any related consumer protection statute. The VCPA may be applicable to an Internet transaction having a direct nexus to Virginia, an out-of-state company dealing with a Virginia consumer who is located in Virginia at time of transaction, advertising targeting Virginia, and contract formation where the consumer remains in Virginia.

Mr. Alvarez explained that one of the primary challenges in applying the VCPA to electronic commerce situations is that the Act embodies general consumer protection principles, not hard and fast rules that are easily applicable to the Internet. For instance, transactions facilitated via passive websites are not subject to VCPA unless other non-Internet contacts form the basis for transaction. In the case of interactive websites, the level of interactivity is a central factor in determining whether the VCPA applies. A Virginia consumer's ability to view a website by itself does not confer jurisdiction over the site's owner. Similarly, online auction sites present several hurdles. The auction business model makes investigation exceedingly challenging, and the sheer volume of transactions far exceeds investigative resources. Additionally, many transactions are individual-to-individual and, therefore, not subject to VCPA. Finally, the geographical location of the seller may make investigative travel cost prohibitive for OCA staff.

Agency Use of Accumulated Databases

Representatives of the Virginia Information Technology Providers Network (VIPNet), Department of Health Professions (DHP), and the Virginia Information Technologies Agency (VITA), briefed the Committee on Virginia's policies and practices regarding state agency sale or license of databases containing consumer information.

The spectrum of agency databases falls into three basic categories:

1. Great public interest, little commercial value: Election results; campaign expenditures; registered lobbyists; lobbying expenditures; environmental quality reports; child care providers.
2. Some public interest, significant commercial value: Licensed professionals – physicians, attorneys, accountants; watercraft registrations; corporate filings; minority business listings.
3. Restricted access, significant commercial value: DMV driver and vehicle records.

Both Virginia and federal laws govern access to these databases. Agencies must follow applicable laws while balancing an appropriate level of public access to databases against adequate protection of confidential information. To illustrate the diversity of policy decisions individual agencies face when providing access to accumulated databases, the presenters examined the policies created and followed by the DHP, Department of Motor Vehicles (DMV), and Department of Game and Inland Fisheries (DGIF). DHP worked with VIPNet to create a database in which subscribers and non-subscribers can search for information on and complaints filed against medical personnel licensed by DHP.

DMV's database is more restrictive. In fact, Virginia has one of the most, if not the most, restrictive drivers' information database in the country. Access is limited to certain groups named in the *Code of Virginia* and who apply for and receive a user name and password. Prior to and after entering the database, users are confronted with a warning that customer records are considered privileged and the access, use and release are restricted by state and federal law. VIPNet and DMV audit subscribers; complaints may also trigger audits.

Boat registration records, available through DGIF, are more open. Subscribers can view boat models, engines and other information about boats registered with the agency. Non-commercial uses include searches by Commissioners of Revenue for tax purposes; commercial uses include corporate marketing and searches for information needed to complete a transaction. Only Commissioners of Revenue have access to social security numbers. Some hunting and fishing licenses also appear in the database, though most are filed manually and remain that way. Rod Willet, General Manager of VIPNet, cautioned that consumers needed greater protection for decisions that are imposed upon them.

***Model Written Policy Governing Access to Court Records
Uniform Real Property Electronic Recordation Act***

J. Jack Kennedy, Jr., Clerk of Circuit Court, Wise County and City of Norton, provided an overview of the Model Written Policy Governing Access to Court Records and Uniform Real Property Electronic Recordation Act. In December 2000, the State Justice Institute funded the Model Written Policy Governing Access to Court Records Project. The purpose of the Project was to produce a draft policy concerning public access to electronically maintained court records. In January 2002, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) became involved in the Project and by October, they endorsed the *Public Access to Court Records: Guidelines for Policy Development by State Courts (CCJ/COSCA Guidelines)*.

The objective of the *CCJ/COSCA Guidelines* is to assist and guide state or individual courts in drafting a policy on public access to court records. The *CCJ/COSCA Guidelines* are written to provide a starting point for drafting a policy, either by a state, for the state's judiciary, or by an individual court, if the state does not adopt a uniform statewide policy. There are two primary goals for the *CCJ/COSCA Guidelines*. First, they seek to raise the major issues that need to be addressed by such a policy. Second, the *CCJ/COSCA Guidelines* attempt to provide specific language and terminology as a starting point for drafting a policy tailored to the needs of a state or individual court. These goals work together to help jurisdictions avoid starting the drafting process from scratch while providing at least one alternative for how to address each of the major issues. A state or individual court can begin with the *CCJ/COSCA Guidelines* language and consider adjusting it to conform to applicable federal and state law regarding access, privacy and an open judiciary (including statutory provisions allowing or restricting access to information), and to technology currently available to the court and clerk of court. The *CCJ/COSCA Guidelines* are intended to be more of a map of the policy-making terrain than a specific set of directions a state can adopt as its own rule. Additional information regarding the *CCJ/COSCA Guidelines* is available at <<http://www.courtaccess.org/modelpolicy/>>.

The Uniform Real Property Electronic Recordation Act is a model law presently being drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) that attempts to provide a working framework to execute real estate transactions electronically. Electronic information technology has progressed rapidly in recent years, making it technically feasible to execute real estate transactions electronically. NCCUSL proposed the Uniform Electronic Transactions Act (UETA) in 1999; at least 41 states have adopted it with another six considering it. Congress passed the Electronic Signatures in Global and National Commerce Act (E-Sign) in 2000. The two acts provide legal recognition to electronically executed real estate transactions. While the electronic documents are valid and enforceable between the parties to the transaction, there is no agreement as to how those documents would be recorded in the local land records. Current state laws and regulations generally describe a recordable instrument as one that is in writing or on paper, thus leading to a concern that electronic documents are not recordable. Additional information regarding the Uniform Real Property Electronic Recordation Act is available at <<http://www.law.upenn.edu/bll/ulc/urpera/nov2003draft.htm>>.

To provide examples of the issues that may arise when a Virginia circuit court contemplates providing electronic access to and filing of public records, Mr. Kennedy shared his experiences as clerk of a circuit court. Since 2000, Wise County has recorded Virginia's first electronic deed, electronic building permit, conditional electronic sewer permit, and electronic certificate of satisfaction. During this time, Wise County also integrated geographic information systems (GIS) and land records, and the County plans to provide electronic filing for litigation documents in the near future. Some of the issues Wise County faced in implementing electronic access to and filing of public records include providing a process for banks to file electronic documents, establishing a valid electronic signature for public notaries and others, and balancing convenience for persons subscribing to the court's electronic services against the potential for fraud or other misuse of the information.

Social Security Numbers on Certain Court Records

To further facilitate electronic access to and filing of public records, Mr. Kennedy suggested amending § 17.1-227 of the Code of Virginia to require that any document being recorded in the deed books of any circuit court clerk's office not contain a complete social security number. He suggested that prospectively eliminating social security numbers from certain documents would reduce inappropriate use of social security numbers (e.g., identity theft) without significantly burdening requiring the clerks by requiring them to retroactively redact social security numbers from existing records.

Committee members expressed concern that the proposal might create a private right of action. It omitted allocating jurisdiction to pursue claims and stating what constituted affirmative consent to use social security numbers. Other concerns involved diverting resources from upgrading equipment and instituting electronic filing to reviewing and redacting documents. Unable to reach a consensus, the Committee invited more public comment.

Public comment ranged from complete support for limiting confidential information in public records to concern that limiting such information would lead inaccuracies in the various databases. Notably, the two court clerks that submitted comments asked for a complete assessment of the nature of the problem and the extent to which the information was being abused. Other concerns were use of the information in the archives, how to handle consent documents, special situations such as happens if the person who executed the document is now dead or incompetent, the nature of the violation, and how to handle inadvertent violations. Following the review of the public comments and its discussion, the Committee did not take any action regarding this proposal.

House Bill 1887 - Workplace Privacy

During the 2002 interim, the Advisory Committee on Privacy recommended to the Commission a bill to establish ground rules for electronic monitoring in the workplace. Generally speaking, employees have a reduced expectation of privacy in the workplace. An employer can conduct electronic monitoring of an employee's e-mail, or other Internet usage. An employer also can conduct electronic monitoring of public areas via closed-circuit video or other audiovisual means. Whether an employer's electronic monitoring violates existing law --such as wiretapping or invasion of privacy-- is situation specific.

Introduced during the 2003 Session, HB 1887 (Patron - May) required employers with 10 or more employees to notify employees prior to engaging in electronic monitoring. It provided limited restrictions on the power to engage in and the disclosure of material obtained through electronic monitoring. Employers were not required to give notice if they had reasonable grounds to believe that a particular employee was engaged in conduct that violates the law, the legal rights of the employer or the employer's employees, or creates a hostile workplace environment, and that electronic monitoring would produce evidence of that misconduct.

The intent of the bill was to require employers to notify employees when the employers were engaging in electronic monitoring. It was intended to be preventative in nature, rather than to address a wrong. The bill created no new cause of action, other than allowing for an injunction in cases of a violation.

Many employers are already engaged in some form of electronic monitoring, much of it likely incidental, such as when a system administrator views an employee's Internet log files to solve an IT-related issue. However, what happens when that system administrator sees that an employee has been spending all of his time at work selling items on E-Bay? Such a situation creates many questions. However, if the employer disclosed its electronic monitoring practices, many of the questions would have been addressed in the notice.

The bill faced opposition during the 2003 Session. One issue cited in opposition to this bill was a requirement that some federal government contractors dealing with defense and national security-related matters must monitor their employees, without notifying them. Others argued that the bill would place an administrative burden on employers. To deal with these issues, the House Committee on Commerce and Labor tabled the bill and the Commission offered to continue addressing this issue.

The Virginia Manufacturers Association (VMA) and Northern Virginia Technology Council (NVTC) opposed the bill, arguing that it was overly broad and burdensome. Brett Vassey, President and CEO of VMA suggested that a model policy or collection of best practices might be a more attractive method of addressing workplace privacy than legislation. Josh Levi, Vice President of Policy for NVTC, also argued that the bill might conflict with a requirement that some federal government contractors dealing with defense and national security-related matters must monitor their employees, without notifying them. Additionally, the Virginia Chamber of Commerce (VCC) also raised concerns about the requirements. Following this discussion, Keith Cheatham, Director of Government Affairs for VCC, informed the Committee that a VCC workgroup is finalizing a model policy addressing workplace privacy. Given the current activities of the VMA and VCC, the Committee decided to not recommend any legislation at this time.

House Bill 2564 – Credit Card Transactions

Introduced during the 2003 Session, HB 2564 (Patron - Scott) provided that a credit card transaction in which the buyer transmits the communications required for the formation of the contract to the seller by electronic mail shall be presumed to have occurred in the state from which the buyer sent his final

electronic mail message. The place where such a credit card transaction occurred is relevant in a determination of whether a credit card purchaser is able to assert certain claims and defenses pursuant to the federal Fair Credit Billing Act.

The bill was quite narrow in scope, as it only applied to credit card transactions conducted via electronic mail. It did not apply to transactions conducted via the World Wide Web, which is the most common avenue for Internet transactions. The intent of the bill was to ensure that a credit card holder conducting transactions via electronic mail could assert claims and defenses under the Fair Credit Billing Act. The claims and defenses of the Fair Credit Billing Act permit the consumer to attempt recovering the amount in dispute --and any related late and finance fees-- in situations where recovery may not otherwise be an option.

The bill was necessary because under present law, Virginians who wish to dispute a credit card transaction conducted via electronic mail with an out-of-state seller may not have the claims and defenses of the Fair Credit Billing Act available to them. The Fair Credit Billing Act requires that "the place where the initial transaction occurred [be] in the same State as the [cardholder's] mailing address or [is] within 100 miles from such address." Typically, however, there is ambiguity surrounding the determination of where a credit card transaction is deemed to have occurred. The present law, observed by Virginia and many other states, leads to this situation; this bill sought to eliminate such ambiguity.

The bill may be contrary to established Virginia case law. Virginia courts have established that a contract is made when the final act necessary to make the contract binding is complete. These cases usually involve telephone transactions, which are the most analogous situations to electronic mail transactions. Because of this imperfect fit --comparing telephone transactions to e-mail-- this bill establishes a presumption that is likely contrary to existing case law.

The House Committee on Science and Technology passed by the bill and the Commission offered to address this issue.

Delegate Scott and Richard Klein, the constituent who raised this issue, explained the factual background and issues necessitating this bill. The bill ensures that a credit card holder conducting transactions via e-mail can assert claims and defenses under the federal Fair Credit Billing Act (FCBA). Under the present law, Virginians who wish to dispute a credit card transaction conducted via e-mail with an out-of-state seller probably can not raise the claims and defenses of the FCBA. The FCBA requires that "the place where the initial transaction occurred [be] in the same State as the [cardholder's] mailing address or [be] within 100 miles from such address." Typically, however, where a credit card transaction occurred can be ambiguous. The intent of this bill is to eliminate such ambiguity.

One Committee member asked whether the bill would apply in situations where a credit card user's agreement provides a choice of law provision for a state other than Virginia. Senator Bolling expressed concern that the bill's scope exceeds its initial intent and asked to be informed regarding other states' activity in this area.

After hearing a brief overview of the Fair Credit Billing Act and learning that Capitol One and the Virginia Bankers Association declined to participate formally, but expressed no significant concern regarding the bill, the Committee recommended alternative language and invited more public comment. The alternative language differs from Delegate Scott's 2003 bill in several ways. First, it does not refer to any specific medium used by the parties to form the contract, such as e-mail or snail mail. Second, the alternative removes any geographic nexus relating to the contract's formation. Finally, the alternative specifically cites the federal Fair Credit Billing Act, the statute Delegate Scott's initial bill sought to apply to Virginia consumers.

Public comment contained complete support for the alternative proposal. The Committee recommended the alternative bill.

3. Recommendations

The Committee recommended that the Commission support a bill that incorporates alternative language to address the issue of contract formation and the Fair Credit Billing Act.

4. Commission Action

The Commission unanimously adopted the recommendations of the Advisory Committee on Consumer Protection.

B. CYBERLAW

Delegate May, Senator Wampler and Delegate D. Marshall, co-chairs

1. Charge

To review the laws of the Commonwealth regarding their applicability to the information age and beyond, and recommend appropriate changes.

2. Summary

The Advisory Committee on Cyberlaw met three times during the 2003 interim: on July 8, September 2 and October 7. During its meetings, the Committee received briefings on and discussed the Uniform Computer Information Transactions Act (UCITA), and identity theft.

Review of August 23, 2002 NCCUSL Amendments to UCITA

Mitchell Goldstein, Director, JCOTS; Joel Wolfson, a partner with the law firm Blank Rome; and Carlyle C. "Connie" Ring, Of Counsel to the law firm Ober Kaler and chair of NCCUSL's UCITA drafting committee provided an overview NCCUSL's amendments to UCITA. Virginia (March 14,

2000) and Maryland (April 25, 2000) currently are the only states that have enacted UCITA. Virginia's statute became effective on July 1, 2001 and Maryland's became effective on October 1, 2000. NCCUSL's role is to draft proposals for uniform and model laws on subjects where uniformity is desirable and practicable, and work toward their enactment in state legislatures. NCCUSL is comprised of more than 300 lawyers, judges and law professors, appointed by the states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. UCITA is a NCCUSL-created uniform law.

UCITA represents the first comprehensive uniform computer information licensing law. The act uses the accepted and familiar principles of contract law. It sets the rules for creating electronic contracts and the use of electronic signatures for contract adoption, thereby making computer information transactions as well-grounded in the law as traditional transactions. Since Virginia enacted UCITA in 2000, NCCUSL has amended the underlying uniform law. In fact, several of NCCUSL's recent amendments to UCITA arose from changes Virginia made as a result of the work of JCOTS.

After hearing the overview, the committee started discussing individual amendments to UCITA. The committee voted to make recommendations to the Joint Commission on Technology and Science on the following selected amendments:

Recommended by the committee: Insurance Services Transactions Excluded (Amendment 1). Insurance services transactions already are regulated and were not meant to be covered by UCITA. To remove any confusion, these transactions are specifically excluded.

Recommended by the committee: A State's Consumer Protection Law Trumps UCITA (Amendment 3). An information contract is expressly subject to and may not waive any consumer protection provided in state or federal law. Included are laws providing for conspicuous disclosure, unfair or deceptive trade practices laws, and laws relating to electronic signatures and records. Currently, Virginia law states that the consumer protection law applies only in the event of a conflict.

Recommended by the committee: Right to Criticize Protected (Amendment 4). Information contract terms that prohibit criticism of an information product are unenforceable. Parties may contract in a manner consistent with other law such as the law of trade secrets. Currently, Virginia law prohibits these terms in mass-market licenses only.

Not recommended by the committee: Section and Subsection Headings (Amendment 5). NCCUSL added subsection and paragraph headings for ease of reading. This amendment provides that section headings are part of the law, but subsection and paragraph headings are not. In Virginia, titles are not part of the law pursuant to § 1-13.9 (Headlines of sections).

Not recommended by the committee: Choice of Law and Choice of Forum Provisions (Amendment 6). UCITA adopts the rules on choice of law and choice of forum in the Restatement and the vast majority of reported cases. These provisions are covered under Virginia's common law.

Recommended by the committee: Remedies for Known Material Defect Preserved (Amendment 9A). Remedies for a known material defect of a product are expressly made available as fully as for defective goods or services. If a practice is prohibited without UCITA, it is still prohibited despite UCITA.

Not recommended by the committee: Reverse Engineering for Interoperability Expressly Authorized (Amendment 10). An information contract may not prohibit reverse engineering that is done for the purposes of making an information product work together with other information products.

Not recommended by the committee: Notice of the Right of Return (Amendment 12). In cases where a right of return and reimbursement exist, notice must be given in the license or otherwise that a refund may be obtained from the person to which the payment was made or other person designated in the notice if the licensee refuses the terms. The committee was concerned that such a provision would lead to liability by the publishers for omissions committed by intermediaries such as retailers and equipment manufacturers.

Recommended by the committee: Special Open-Source Software Provisions (Amendment 16). Open-source software is expressly not covered by the Act if only copyright permission is given and is not part of a contract. If there is a contract, there are no implied warranties if there is no commercial gain from the transaction.

Not recommended by the committee: Electronic Self-Help Banned (Amendment 17). Vendors (called licensors mainly) of digital information, including software, may not disable the use of that information by electronic means if there is a breach of an information contract. Vendors have an expedited remedy for a material breach of contract in a court of law.

The Committee also discussed and adopted the remaining amendments. Most of the changes were organizational making the statute easier to read by breaking up various sections and remove redundant provisions, such as those regarding when UCITA applies to contracts for mixed goods (Amendment 2). The changes also clarified the application of “usage of trade” (Amendment 9B) and the methods of providing an opportunity to review license terms prior to agreement (Amendment 7). The Committee voted to delete the default rules on license duration and permitted users (Amendment 13) and defer to the common law rules already applicable to the industry. The Committee adopted one substantive change by providing that there is no implied warranty with respect to subjective characteristics (Amendment 15).

Identity Theft

After the Committee voted to recommend a bill that incorporates its amendments, the Committee turned its attention to the growing problem of identity theft. In spite of a Commission meeting and an Attorney General's task force on this subject last year, identity theft's continued growth merited consideration.

During the 2003 session, the Commonwealth adopted a number of laws governing the use of social security numbers, a key identifying number for individuals.

To introduce the subject, Gene Fishel, the newest prosecutor in the Office of the Attorney General's Computer Crime Unit, discussed the problem of this fastest growing crime in the country. Identity theft causes victims to spend countless hours trying to repair the damage done to their names and credit and costs the economy billions of dollars every year.

Mr. Fishel presented the findings of the Attorney General's Identity Theft Task Force from 2002, the recommendations that the 2003 General Assembly adopted, and the remaining work still to be done. On May 10, 2002, the Attorney General launched the Identity Theft Task Force composed of technology and business leaders, law enforcement officers, legislators, identity theft victims and consumer advocates. The Task Force was charged with developing practical and effective ways to prevent identity theft and to help victims. The groups made recommendations, some of which were enacted as laws during the 2003 session of the General Assembly.

Prior to July 1, 2003, the identity theft laws only criminalized stealing the identity of a *living* person. Today, it also criminalizes stealing a *dead* person's identity. The law was also amended to address "dealers" in false ID's and those who seek to distribute information or material that would aid in identity theft. According to the group, news reports showed an emerging trend of thieves posing as state attorney general offices. Thus, the statute was amended to prohibit posing as a law enforcement or state official to commit an identity theft offense.

The Code of Virginia was amended to allow the Attorney General's Office in conjunction with the state police to issue "ID Theft Passports." This program, which took effect on July 1, 2003, allows a victim of identity theft to present a court order expunging their record or proof that he has filed a police report to the Attorney General's Office. That office would then issue a passport that serves as an indication that its holder was a victim of identity theft. The passport is meant to prevent a victim from being unnecessarily arrested, thus avoiding potential embarrassment in front of friends or family, or at least make the officer double check before they arrest the person. Since July 1, they have issued 13 passports and hope that this program becomes a national model to assist victims of this crime.

Another significant change was an amendment to the Government Data Collection and Dissemination Practices Act. It now prohibits the display of Social Security numbers on state issued ID cards, including those for students and employees. It also prohibits state agencies from displaying social security numbers on all mailings, whether on the outside or inside of the package or envelope. Finally, the law was amended to ensure that public records containing personal identifying information are destroyed when they are no longer needed. In addition to changes in the law, the Office also published a booklet on how to avoid ID theft and a brochure educating the public on cyber-crime in general.

While many recommendations became law, many did not. The Task Force recommended encouraging police departments to take police reports from victims of ID theft and take them in a standard form. After hearing from a Virginia teacher whose identity was stolen and used by someone who worked at

her insurance company, it recommended expanding the identity theft law to include “Identity Embezzlers” - those who obtain the information by legal means, such as through employment, and then use it in an unauthorized manner. It recommended prohibiting “secondary identity theft” which deals with the criminal possession, recording, or distribution of the means by which thieves may unlawfully access personal identifying information.

The group learned about a newer type of computer trespass where “wireless fidelity” hackers use wireless modems, drive around to wireless local area networks and hack into them. They then post or distribute the network’s location and other stolen access information in order to aid other hackers. This type of theft can be a potentially dangerous problem with hackers able to tap into key infrastructure systems, such as those that control airport, train or ship routing information.

Lastly, the group found that an enormous amount of identifying information appears on publicly available documents. Vital records are defined in Virginia as “certificates of reports of births, deaths, fetal deaths, adoptions, marriages, divorces or annulments and amendment data related thereto.” The group ultimately recommended that law that prohibits the unlawful acquisition, possession, sale or distribution of another’s birth certificate, be expanded to include all vital records.

In addition to the work of the task force, Mr. Fishel recounted other laws passed to address identity theft. Among them was a law to prohibit associations or corporations that accept credit cards or other payment devices from printing more than the last 5 digits of the payment device number or the expiration date on any receipt. All new machines had to comply by July 1, 2003, while existing machines have until July 1, 2007. He concluded his presentation by complimenting the General Assembly and the Attorney General’s Office on the work that it has done and cautioned them that there is much more to do.

The ensuing Committee discussion produced key observations. Many committee members believed that government agencies must take the lead by only asking for required information on documents. Required information should be restricted to the information that is truly essential for the given task. The Commonwealth should not put government officials in the middle of determining what is public information. Instead, the Code of Virginia should make it clear what information is essential. Among the information that should never be essential on public records is an individual’s social security number.

The private sector also has a role to play in protecting its own information. For example, less than half of homes enable the encryption measures that are built in to home wireless systems. Though no measure is completely effective, required measures and penalties for violations must distinguish between the people who take necessary precautions and those who do not. The criminal law also must reach those people who induce others to obtain the information needed to steal someone’s identity. People may obtain the information legally for one purpose, but the principal intends to use it for another.

The Committee questioned whether employers should have the obligation to police their employees who have access to customers’ personal information. For example, in one case of identity theft in Virginia, the identity theft was tracked to an employee of a Virginia company whose job gave him access to the

information that he used. If that becomes a solution, at least one member of the committee cautioned that employers should be granted immunity if they have specified safeguards in place.

In the end, educating the public about identity theft and the simple measures one could take to reduce the likelihood of being a victim has shown the greatest dividends in the battle against identity theft. Studies and anecdotal evidence seem to show that gullibility and carelessness are the greatest means to identity theft. Simple measures such as not giving personal information over the telephone unless you initiated the call and are certain that the party on the other end is legitimate and shredding personal documents such as bank statements and anything with a social security number on it are proactive steps that the public can take to protect themselves.

Ultimately, like many issues, a combination of social, technological and political actions are the best solution to an ever-growing problem that everyone pays for in higher costs.

3. Recommendations

The Committee recommended that the Commission support:

1. A bill incorporating the amendments to UCITA adopted by the committee.
2. A bill that speeds up compliance with the payment devices restrictions and extends the requirements to printed receipts.
3. Continuing discussion on privacy and identity theft, including the use and control of information.

4. Commission Action

The Commission adopted the committee's proposals. However, in response to congressional preemption in the Fair and Accurate Credit Transactions Act, JCOTS modified the second recommendation to remove the restrictions on electronically printed credit and debit card receipts.

The Commission also adopted two additional proposals to further the work of the Committee:

1. A bill to limit the appearance of "unique identifying numbers" on public documents to no more than the last four.
2. A bill to restrict the use of social security numbers to access goods and services or as customer identification.

C. INTEGRATED GOVERNMENT

Delegate Nixon, Senator Howell, Delegate Purkey, co-chairs

1. Charge

To explore the issues raised by this transformation of government.

2. Summary

The Advisory Committee on Integrated Government met three times during the 2003 interim: on July 22, September 3 and October 8. During its meetings, the committee had briefings on and discussed information technology (IT) reforms and the Videoconference Pilot Project.

Virginia Information Technologies Agency (VITA) for the uninitiated

Prior to the creation of VITA, the Commonwealth's IT environment consisted of decentralized, stove-piped systems and decision making. Essentially, every agency had its own Chief Information Officer and purchasing authority. The result was weak buying power, an inability to take advantage of economies of scale and inconsistent security measures among agencies.

House Bill 1926/Senate Bill 1247 changed this environment. Introduced in the 2003 Session as a complete consolidation of all information technology assets in the Commonwealth, the bill was modified based on the Joint Legislative Audit and Review Commission's (JLARC) Report 289 (December 2002) on IT systems development. The legislation was signed on May 5 and VITA became effective on July 1, 2003.

VITA offers the Commonwealth an opportunity to consolidate and centralize IT procurement by taking advantage of strong buying power, economies of scale, and best practices management. The net result is an enterprise approach to managing the Commonwealth's IT resources with standardized security protocols. VITA replaced the Department of Information Technology, Department of Technology Planning and the Virginia Information Providers Network Authority. It also consolidates certain information technology assets. Some of the affected employees will become employees of VITA while the rest will remain with the agencies.

VITA will be run by the Information Technology Investment Board (the Board), which is composed of 10 members appointed by the Governor and the Joint Rules Committee of the General Assembly. The Board will appoint a Chief Information Officer (CIO) for the Commonwealth on a 5-year special contract to serve as VITA's chief administrative officer and oversee VITA. Both the Board and the CIO were JLARC recommendations. The Board's authority extends over all state agency information technology projects that (i) are mission-critical, (ii) have statewide application, or (iii) have a total estimated cost of more than \$1 million.

The VITA legislation places an emphasis on planning, approval and oversight, which were also emphasized by the JLARC recommendations. September 1 of every year, the Board must submit a prioritized list of recommended technology projects to the Governor and General Assembly for funding approval. The CIO has numerous planning and oversight responsibilities listed in the legislation, including approval of planning for and development of all major IT projects; authority to modify or suspend major IT projects (only the Board can terminate IT projects); lead project approval and oversight process; and review and approval of all IT procurements. The legislation also establishes a project management division within VITA.

VITA Transition Update

Cheryl Clark, Deputy Chief Information Officer, VITA, briefed the committee on the transition from the previous system to VITA. She explained that the vision for technology in the Commonwealth is to establish Virginia as a global leader in the use of technology in government. In keeping with that vision, the vision for VITA is to transition from decentralized, stove-piped IT service delivery headed by multiple CIOs to a highly effective, consolidated and centralized model headed by an enterprise CIO. The net result is to revolutionize services to their customers by providing the best quality at the best price.

Ms. Clark explained that VITA's leadership faces a number of challenges and commitments. They must achieve operational excellence, exceed service expectations, learn from and avoid past mistakes, and invite and facilitate stakeholder-driven solutions while ensuring a smooth and seamless transition by involving state IT professionals. In addition, VITA must "do no harm" and assure business continuity in current operations.

VITA was created on July 1 and had a kickoff party on July 8 at which the Governor named his appointments to the Board. Since that time, the department has developed the Memorandum of Agreement (MOA) that will serve as its agreement with the various executive branch agencies. VITA has already conducted an assessment of which employees and systems will be transferred and, together with the agencies, notified those employees who will be moving. VITA has identified an estimated 1,300 out of 2,400 IT employees that will transition to VITA once the MOA has been signed. These employees support enterprise-wide applications or infrastructure in 74 executive branch agencies (there were originally 94 agencies, but many were consolidated or abolished during the 2003 session). Employees who support custom application or platforms will remain with their current agency.

VITA has also adopted a series of operating best practices and created a new "brand" for the Commonwealth -- VIRGINIA.GOV-- and has moved into a new headquarters to differentiate itself from its former component agencies. The bottom line is a shift in the culture of information technology in state government

VITA is establishing its priorities for the budget process and the agencies are exploring their initiatives for submission to VITA and the Board. Money for IT projects will remain with the agencies that will continue to be responsible for IT planning. Some of VITA's funding will come from these agencies

through chargebacks. When asked about concerns over using this funding model to create profits at the expense of other agencies, Ms. Clark responded that this is not VITA's intent, though it will charge for overhead expenses. Furthermore, the agency is reviewing its funding models. In response to a question about conflicts between VITA and the agencies, Ms. Clark replied that the MOA and customer service directorate have been created to handle disputes and other issues. Delegate Nixon cautioned Ms. Clark to meet with the Board early on to get its input in the entire process and structure of VITA because the Board has the power to change anything.

VITA Implementation Update

Glen S. Tittermary, Senior Division Chief, Joint Legislative Audit and Review Commission (JLARC), provided an update on the implementation of VITA. Mr. Tittermary began his presentation by recounting the events that led to VITA's formation, and JLARC's role therein. Notably, many of the recommendations contained in JLARC's December 2002 report *Review of Information Technology Systems Development* were incorporated into the legislation creating VITA during the 2003 Session. At its July 2003 meeting, JLARC directed its staff to monitor the implementation of the new agency from its creation through full implementation in 2005.

Following this background, Mr. Tittermary reviewed significant issues arising from VITA's formation on July 1, 2003, and its continued implementation. Mr. Tittermary addressed a range of subjects related to VITA, including the Information Technology Investment Board (ITIB), the Chief Information Officer (CIO), VITA organization and operations; consolidation of staff and IT assets, systems development and project management, and funding of VITA implementation. For each of these topics, Mr. Tittermary provided the current status and identified JLARC's concerns and required actions. One concern Mr. Tittermary highlighted was the ITIB's recent vote to delegate several of its duties to the CIO. Because these duties were enumerated in the legislation creating the ITIB, such an action appears contrary to legislative intent.

At the conclusion of Mr. Tittermary's briefing, Chairman May asked him to identify the three most critical issues facing VITA. In response, Mr. Tittermary identified the issues as (i) the need for the ITIB to start executing its statutory duties and for its members to become more active, (ii) the immediate need to identify and hire a Chief Information Officer, and (iii) whether sufficient funding currently is allotted to support VITA's statutory project management responsibilities.

The Honorable George C. Newstrom, Secretary of Technology, responded to Mr. Tittermary's briefing. Secretary Newstrom asked the Committee to keep in mind that VITA was created slightly more than two months earlier, and that the new agency had accomplished much in that short period, including holding the inaugural meeting of the ITIB a month after its statutory creation, publishing a draft operating plan for VITA a month after its statutory creation, and making the new agency's first report on recommended technology priorities to the Governor and General Assembly less than two months after VITA's creation.

Secretary Newstrom also assured the Committee that VITA's implementation was on track and would continue to be successful. Following these comments, Chairman May asked Secretary Newstrom to address the three critical issues identified earlier by Mr. Tittermary. During his response, Secretary Newstrom indicated that he believed the ITIB would rescind the delegation of several of its statutory duties to the CIO. Chairman May later offered to have several legislators address the ITIB and share their thoughts on the Board's role and duties at a future meeting.

At a subsequent meeting, Eric Link, Staff Attorney, JCOTS, presented an update on VITA-related events since the previous presentations. On September 25, 2003, the Information Technology Investment Board held an ad hoc meeting. During the meeting, the CIO Search Committee reported that proposals from six executive search firms to conduct the CIO search were considered. They required the search firms to waive their fees and provide services on a pro bono basis. Only four of the six firms' proposals were given consideration for review. Two of the four firms agreed to provide services pro bono – two did not agree to this requirement. After careful review, the CIO Search Committee recommended that the Board engage the services of The McCormick Group (pro bono) and proceed immediately with the necessary paperwork in hiring the firm to start the search. The Board also discussed the vote at its August 2003 meeting to delegate several of its duties to the CIO. One board member made a motion to rescind the delegation of authority passed at the August 5, 2003 meeting in its entirety, and that all authority be returned to the Board. Receiving no second, the motion failed. Another board member made a motion that the Board amend the delegation of authority to limit exercising those duties, rather than rescinding it. The amended delegation of authority motion was approved 6-1. The amendment to the original motion to delegate stated, "The exercise of these certain enumerated delegations by the interim Chief Information Officer shall not extend to those matters which involve major policy, planning, or funding issues."

Mr. Link also noted that as of October 8, 2003, VITA had executed IT Service Transition Plans with 17 of 37 small agencies. VITA's enabling legislation requires the agency to execute Service Transition Plans with all 37 small agencies by December 31, 2003. Additionally, Mr. Link informed the Committee that Chairman May, Delegate Nixon and Senator Stosch are scheduled to give a presentation titled "Legislative Update" at the ITIB's October 15, 2003, meeting. At the last Committee meeting, Secretary of Technology George Newstrom invited Chairman May to make such a presentation.

Virginia's Spend Analysis Consulting Services Contract

James T. Roberts, Director, Department of General Services, Eugene Huang, Deputy Secretary of Technology, and Susan Woolley, Director of Acquisition Services, VITA, briefed the Committee on the Commonwealth's new "spend management" initiative, the Virginia Partners in Procurement (VAPP) pilot project, and VAPP's affect on VITA's IT procurement.

Mr. Roberts provided general background information on the VAPP pilot project. In recent months, the Commonwealth negotiated statewide contracts in nine spending categories (software, computer hardware, lab supplies, office supplies, paper, uniforms, janitorial supplies, temporary workers, and

maintenance, repair and operating supplies), harnessing the full purchasing power of state government and institutions of higher education to get the most favorable prices and value on goods the Commonwealth uses every day. To help the Commonwealth achieve these savings, the Department of General Services (DGS) entered a consulting services contract with Silver Oak Solutions, Inc. Under the contract, which contains a guaranteed return on investment, Silver Oak provides data analysis, contractor negotiations, and knowledge transfer. With the assistance of Silver Oak, the VAPP pilot project has resulted in:

- Better coordination across government;
- Leveraging Virginia-wide purchasing power;
- More competitive negotiation processes;
- Increased contract spending with SWAMs ("Small, Women and Minority" Business);
- Efficiencies for suppliers; and
- Estimated \$25 - \$30 million annual savings based on new contracts.

Deputy Secretary Huang briefed the Committee on VITA's participation in the VAPP pilot project. VITA only has significant expenditures in two of the project's nine spending categories -- software and computer hardware. Additionally, the VAPP pilot project was initiated during a time of major change in VITA's IT procurement; VITA is heavily involved in its own procurement reform (ProReform) and IT consolidation. Because of these two factors, and to define VITA's participation in the VAPP pilot project, VITA and DGS elected to focus on commodities with the greatest potential for cost reduction and savings through aggregated purchasing from centralized consolidated contracts. As a result, more than half of VITA's hardware (\$65 of \$123.9 million) and software (\$27.8 of \$43 million) expenditures are within the scope of the pilot project. However, given VITA's spending in other categories such as IT contractors, telecommunications, PC peripherals and IT consulting, only 21 percent of VITA's total expenditures are within the scope of the pilot project. According to Deputy Secretary Huang, VITA anticipates saving \$7 million on hardware and \$2.3 million on software under the pilot project. In the next phase of VITA's participation, computer peripherals will be added to the list of in-scope items, and VITA staff will receive IT procurement training from Silver Oak as part of the consultant's knowledge transfer obligations under its contract with DGS.

Procurement Reform Update

After passage of House Bill 519 in 2002, which transferred permanent procurement authority for IT from the Department of General Services (DGS) to the Department of Information Technology (DIT), DIT began developing a best practices model for centralized IT procurement. VITA, DIT's successor agency, implemented that model when it published its procurement guide.

The best practices model is solutions-oriented, not process-oriented. The new model will use best value evaluation to secure the best technology solutions available, replacing the old scoring system. The model also calls for developing long-term strategic partnerships with the Commonwealth's industry partners and using procurement solutions that share the risks and benefits with those partners. Finally, the new procurement guide incorporates strictly enforced codes of conduct for procurement

professionals and industry partners to ensure fairness, objectivity and professionalism in technology procurement.

VITA's framework for technology procurement includes a total reformation of the terms and conditions (T's and C's). Mandatory T's and C's will be limited to those required by the Virginia Public Procurement Act, the procurement itself or the business owner. Remaining T's and C's, so-called Desirable T's and C's, will be business driven and subject to negotiation. The reform also includes standardizing T's and C's and reasonable limitation of liability clauses, all in an effort to add certainty, transparency and fairness to the process.

Eventually, VITA will provide online IFB's (Invitations For Bid) and RFP's (Requests For Proposal); online postings, openings, forms and responses; and online reverse auctions. The agency plans to add a prequalification process for industry partners and specific products and services to shorten the procurement cycle and provide best value technology solutions for the Commonwealth. VITA also will use statewide contracts, developed in accordance with its enterprise architecture standards, to purchase many technology goods and services.

VITA has continued DGS's policy of delegating authority to certain agencies and is collecting data on procurements conducted under that authority. Delegation data is subject to audit by VITA at any time. Once appointed, the new CIO will establish the general technology procurement delegation authority for each agency.

VITA is currently accepting comment on opportunities for small, women-owned and minority businesses; various procurement methods, such as using the GSA Schedules or the Western States Contracting Alliance; compliance with section 508 of the Rehabilitation Act (access for the disabled); technology refresh procedures; a computer product challenge process, which allows companies to challenge the incumbent's contract based on specific factors if the challenger can provide a better offer; protest procedures; and the liability clause. Many of the issues that VITA has addressed were raised and discussed in last year's committee. The questions to be resolved have been and continue to be discussed until solutions are reached.

The 2002 Advisory Committee on Integrated Government created a matrix of short- and long-term goals for IT procurement in the Commonwealth. Committee members submitted suggestions to JCOTS staff who compiled and edited them, creating the matrix. The committee then discussed the issues and goals contained in the matrix with the Department of Information Technology (DIT; one of the three agencies combined to create VITA). At that time, DIT was starting its Procurement Reform (ProReform) project. VITA updated the matrix as part of its continuing ProReform efforts, and highlighted the issues they addressed and how they did it (*see Appendix 4*).

Videoconference Pilot Project Update

Eric Link also briefed the Committee on recent events related to the Videoconference Pilot Project. The 2002 Advisory Committee on Integrated Government recommended that JCOTS work to help

establish two regularly scheduled videoconference meetings per month that legislative bodies could use to help reduce travel time and cost. JCOTS adopted and approved this recommendation. At its meeting on April 23, 2003, the Joint Rules Committee gave JCOTS approval to move forward and facilitate the pilot project.

JCOTS worked with the Clerks' offices, the Virginia Freedom of Information Advisory Council, the Virginia Community College System (VCCS) and the Virginia Department of Transportation (VDOT). VCCS and VDOT have a combined total of 51 videoconference sites throughout the Commonwealth that legislators, other members of public bodies in the legislative branch, and the general public can use to attend and participate in videoconference meetings. Presently, there are videoconference facilities available in six regions throughout Virginia as part of the videoconference pilot project: Northern Virginia, Hampton Roads, Greater Richmond, Greater Lynchburg, Blue Ridge (Harrisonburg & Staunton areas), and Southwest Virginia (Abingdon & Bristol areas).

Public bodies in the legislative branch wishing to take advantage of this service can use as many of the six regions that they need. One of these public bodies used videoconferencing during 2003's abbreviated schedule. Following Mr. Link's presentation, the Committee discussed the Videoconference Pilot Project and whether to recommend that the July 1, 2005 sunset on the statute permitting videoconference meetings be removed. The Committee decided to take no action, and asked JCOTS staff to promote the services under the Pilot Project during the 2004 interim.

3. Recommendations

The Committee recommended the Commission continue monitoring VITA's implementation and continue the committee's work.

4. Commission Action

The Commission unanimously adopted the recommendations of the Advisory Committee on Integrated Government.

D. THE HARD SCIENCES

Senator Newman, Delegate Plum and Delegate T. Rust, co-chairs

1. Charge

To evaluate the economic environment and capabilities of the Commonwealth to contribute to and benefit from the growth of new technologies and industries.

2. Summary

The Advisory Committee on the Hard Sciences met twice during the 2003 interim: on August 6 and November 18. During its meetings, the Committee had briefings on the infrastructure necessary for research and development initiatives in Virginia's institutions of higher education, the Governor's Advisory Board for The Virginia Biotechnology Initiative and distance learning.

Advanced Networks: Internet2 and National LambdaRail

Jeff Crowder, Director of Strategic Programs for Virginia Tech, began by explaining the infrastructure currently being used by the institutions, Network Virginia next generation (NWVng). NWVng is an advanced, broadband network delivering Internet and intranet services statewide. With nearly one thousand sites serving 1.4 million people, NWVng offers access to an array of educational and information resources. Participants include four-year colleges and universities, the Virginia Community College System, private schools, and K-12 school systems. Also, many state agencies are taking advantage of the Network. The same infrastructure is open to everyone including commercial customers at low cost.

The network was created and operated with private sector investment and ownership with no state subsidies. The network's access capacity ranges from 1.5 Mbps to 622 Mbps and can deliver simultaneous transmission of fully interactive voice, data, and video services. NWVng supports statewide Intranet enabling multimedia applications; distance learning, advanced placement, and teacher training applications; online testing for the Standards of Learning; administrative applications; and advanced programs. It provides low cost access to the Internet and Internet2.

Internet2 is a consortium being led by 205 universities working in partnership with industry and government to develop and deploy advanced network applications and technologies, accelerating the creation of tomorrow's Internet. The primary goals of Internet2 are to create a leading edge network capability for the national research community; enable revolutionary Internet applications; and ensure the rapid transfer of new network services and applications to the broader Internet community.

Global competition is heating up and the United States is being surpassed. Recently, a new Japanese supercomputer took away the title of world's fastest. The NEC Earth Simulator processes data five times faster than its closest competitor. It can perform more calculations per second than there are stars in this galaxy, faster than top 5 US supercomputers combined (the "Teragrid"). It works at a speed of 35,600 gigaflops compared to its closest rival, IBM's ASCI White, which runs at a speed of 7,226 gigaflops. To maintain its competitiveness, an NSF blue-ribbon advisory panel recently estimated that an additional \$850 million per year in cyberinfrastructure would be needed to sustain the ongoing revolution in science and engineering

A high-performance, best-effort Internet Protocol network will not meet emerging requirements such as computational science grids, applications with deterministic network requirements, or the infrastructure needed for basic and applied network research. Mr. Crowder informed the committee that Internet2

was using a technology that would not meet the next generation of infrastructure necessary to meet research needs. The next generation of infrastructure being developed is the National LambdaRail (NLR). NLR is a major initiative of U.S. research universities and private sector technology companies to provide a national scale infrastructure for research and experimentation in networking technologies and applications. NLR aims to catalyze innovative research and development into next generation network technologies, protocols, services and applications. Unlike Internet2, NLR puts the control, the power and the promise of experimental network infrastructure in the hands of the scientists and researchers.

NLR's fundamental mission is to provide an enabling network infrastructure for new forms and methods for research in science, engineering, health care, and education as well as for research and development of new Internet technologies, protocols, applications and services. NLR will, for the first time, provide the research community with direct control over a nationwide optical fiber infrastructure, enabling a wide range of facilities, capabilities and services in support of both application level and networking level experiments and serving diverse communities of computational scientists, distributed systems researchers and networking researchers. A primary goal of NLR is to bring together these diverse research communities to solve complex challenges of network architecture, end-to-end performance, and scaling. Just as the creation of NSFnet led to commercialization of the Internet, a goal of NLR is to enable technology transfer into commercial development and creation of new markets, and therefore stimulate economic development and contribute to U.S. national competitiveness.

On November 18, 2003, NLR announced that it successfully lit the initial segment on its national footprint between Chicago and Pittsburgh - connecting the Pittsburgh Supercomputing Center (PSC) to the Extensible Terascale Facility (ETF), the backplane network for the National Science Foundation's Teragrid project, through the StarLight Facility in Chicago. The deployment began early September 2003 with Cisco Systems, Inc. installing dense wavelength division multiplexing (DWDM) extended long-haul platforms every 100 kilometers on intercity dark fiber NLR purchased from Level 3 Communications, Inc. On November 14, meeting the target completion date, Cisco turned over seven 10 Gbps wavelengths ('lambdas') to NLR along the 674 fiber miles between the two cities.

NLR is currently working on the Seattle to Portland, Ore. path, scheduled for completion by mid-January 2004 and Portland to Sunnyvale, Calif., scheduled to be ready by mid-April 2004. Other segments on the national footprint include Pittsburgh to Washington D.C., mid-March 2004; Washington D.C. to Atlanta, mid-April 2004; Denver to Seattle, early June 2004; Atlanta to Jacksonville, mid-July 2004; and Chicago to Denver, mid-July 2004. Implementation of Atlanta to Dallas; Dallas to San Diego; and, Washington D.C. to New York City are scheduled for July to December 2004.

To join this effort, Virginia Tech, the University of Virginia, Old Dominion University, Virginia Commonwealth University, George Mason University, the College of William and Mary, and associate member Oak Ridge Associated Universities formed the Mid-Atlantic Terascale Partnership (MATP). MATP is a consortium of research institutions in Virginia, Maryland, and Washington formed to support research activities that require next-generation high-performance network connectivity. MATP is open

to all public and private institutions of research through Virginia, Maryland, and Washington DC. MATP's primary focus is to collaborate to promote regional science and technology research competitiveness. The partnership created a forum for cooperation to implement terascale research computational and communication infrastructure. MATP calls for the cooperation for implementation of state and regional optical research network infrastructure scalable to terabit capacity and collaboration, where appropriate, to establish Teragrid infrastructure by acquiring and combining computational and storage resources and to pursue related research funding opportunities. On behalf of MATP, the Virginia Tech Foundation is underwriting a 5-year, \$5 million commitment to ensure the location of an NLR node in Washington DC.

Virginia Biotechnology Initiative

Dennis Fisher, Co-Chair of the Governor's Advisory Board, and Terry Woodworth, Director of Life Sciences for the Center for Innovative Technology, explained the biotechnology initiative and its recommendations to the Committee.

The biotechnology industry is at a unique moment in time - on the cusp of rapid maturation, evolving out of the "infant mortality stage". This dynamic environment will create many opportunities for the Commonwealth to compete successfully for a leadership role in the global biotechnology industry of the 21st Century. Future trends in healthcare, public health and safety, agriculture and environmental enhancement are all being significantly influenced by biotechnology, creating new industries, companies and jobs. With a sustained effort, many of these industries, companies and jobs can be located in the Commonwealth, including rural regions, creating new sources of wealth and tax revenue for the Commonwealth.

Given the unique needs of the biotechnology industry, the Commonwealth can expect to become an industry leader and achieve the vision laid out in the last year's Phase I report only with a serious commitment and financial stimulus from state government. The Phase I Advisory Board submitted a report, "Recommendations for a Statewide Comprehensive and Coordinated Strategy for Biotechnology," on November 26, 2002. It was subtitled "The First Steps: Building the Industry Base and Commercializing Current Technologies". (Report available at <http://www.cit.org/gab-bio-main.asp>). The report articulated seventeen recommendations covering four "foundational areas": Access to Capital, Human Capital, Facilities/Infrastructure and Intellectual Capital.

The initial task of the Phase II effort was to submit specific budgetary recommendations for the 2004-2006 biennium. The Advisory Board was intent on incorporating the highest priority recommendations from the Phase I study. However, during the course of this effort it became apparent that these recommendations taken individually are simply qualifiers that are necessary, but not sufficient, to achieve the Board's vision. The missing element was a mechanism to integrate these qualifiers around applications based on competitive core-competencies, to ensure that the recommended investments would have the desired impact on economic development and the creation of high quality jobs across the Commonwealth.

Accordingly, the Board recommended an approach to “draw out” creative proposals and competitive strengths to provide key differentiators in the Commonwealth’s quest to become a biotechnology leader. The concept is to create up to five comprehensive and “integrative” partnerships (Biotechnology Macro Partnerships or BMPs) over the next five biennial cycles. These entities would be bioscience clusters or centers of excellence that include active participation from organizations across the full spectrum of product invention to successful and sustainable commercialization. The mission of each BMP would be to accelerate the translation of core competency research ideas and business capabilities into viable products that can be successfully commercialized (through forming startup companies or partnerships with existing companies), resulting in significant economic development across the Commonwealth.

A successful BMP proposal must demonstrate that it is based on a nationally competitive core-competency and that it has a superior approach to Human Capital (eminent research scholar(s), workforce education and business management skills). The BMP must include a “gap-bridging” organization, modestly staffed with scientific, medical and business skills, to ensure effective coordination among the several culturally diverse (academic, business, government) partners. With an appropriate level of funding and support, these BMPs would be able to provide the bridge necessary to unite government and business interests and financial capabilities to continue and enhance the Commonwealth’s competitiveness in biotechnology well into the future.

Virginia Educational Ventures

Anne H. Moore, Associate Vice-President for Learning Technologies and Director of Information Technology Initiatives Learning Technologies at Virginia Tech, informed the Committee about a proposal to expand and coordinate distance learning in the Commonwealth.

The Commonwealth has a well-established and generally quite successful college and university structure. A hallmark of this structure has been a high degree of institutional independence. Efforts of some of the Commonwealth's institutions in the distance-learning arena are both mature and innovative, ranking among the best efforts of institutions in the United States. A number of issues are driving the interest in advancing an electronic campus initiative or establishing a virtual university. These issues include coping with an estimated increase of 38,000 traditional-age students during the next decade; serving educationally underserved communities; offering opportunities for degree completion for those who have attended college in the past; affording non-traditional second and third career professionals and workforce development candidates access to higher education; expanding current offerings; and maintaining competitiveness.

These institutions must be able to achieve their objectives while reducing costs. Exacerbating the ability of the Commonwealth's institutions of higher learning to respond constructively to these issues is their perceived fiscal situation. For over a decade, both their relative and absolute fiscal position has deteriorated as a consequence of budget priorities and economic conditions at the state level.

To address some or all of the perceived problem areas while not further worsening the fiscal situation of the Commonwealth's institutions of higher learning, Ms. Moore recommended that the Commonwealth create an Authority to encourage, both through coordination and financial support, new educational initiatives that address educationally underserved constituencies in technologically innovative and cost efficient ways. The Authority, Virginia Educational Ventures, would contract with an institution or consortium to make appropriate demand studies to identify and determine the characteristics of educationally underserved communities of interest in the Commonwealth. Following one or more demand studies and determination of the most promising opportunities, Virginia Educational Ventures would then contract with one or more state supported educational institutions to develop and execute a strategy to address the educational needs of those constituencies. The Authority would provide seed money to assist in program development, market research and business planning for the contracting institution; and help identify potential partners to share the risks associated with the new educational initiatives.

3. Recommendations

The Committee recommended that the Commission support:

1. The Biotechnology Initiative's goal of forming an integrated long-term strategy, designed to place Virginia among the top 10 states in Biotechnology by 2010 through the creation of an organization to bridge the gap between academia and business.
2. Virginia Educational Ventures' recommendation for creating an Authority to encourage, through coordination and financial support, new educational initiatives that address educationally underserved constituencies in technologically innovative and cost efficient ways.

4. Commission Action

The Commission unanimously adopted the recommendations of the Advisory Committee on the Hard Sciences.

IV. CONCLUSIONS

The Joint Commission on Technology and Science extends its sincere appreciation to everyone who participated in its work during the past year. We look forward to continuing to build on this work in 2004-2005.

Respectfully submitted,

Delegate Joe T. May, Chair
Senator Stephen D. Newman, Vice Chair
Delegate Kenneth R. Plum
Delegate Harry R. Purkey
Senator Patricia S. Ticer
Delegate Daniel W. Marshall, III

Delegate Sam A. Nixon, Jr.
Senator William T. Bolling
Delegate Mary T. Christian
Senator Janet D. Howell
Senator William C. Wampler, Jr.
Delegate Thomas D. Rust

APPENDICES

Appendix 1

2003-2004 Commission Work Plan (Adopted May 21, 2003)

Issues to Actively Study through Advisory Committees

CONSUMER PROTECTION

ISSUE: Electronic commerce continues to innovate and expand. As electronic commerce becomes more global, the location of the transaction becomes vague. Most consumer protection laws, however, are based on the location of either the transaction or the consumer. Furthermore, because consumer protection varies by jurisdiction, the consumer and the merchant need to know which consumer protection laws will apply to a given transaction. This situation's uncertainty threatens the predictability that merchants and consumers rely upon to transact business.

CHARGE: To review and recommend changes to the consumer protection laws of the Commonwealth and their application to electronic commerce transactions.

TOPICS: Privacy: Online transactions typically require a consumer to reveal personal information, much of which appears to be unnecessary to the transaction. In the offline world, a consumer can simply refuse to provide the information. In the online world, this action may prevent the transaction. Suggest reviewing current privacy laws as they pertain to the online world.

New Model Policy - Model Policy for Access to Court Records

Workplace privacy: During the 2003 Session, the Commission proposed legislation to address covert electronic monitoring in the workplace. Suggest discussing the concerns regarding this legislation raised during the Session and working with the organizations that raised those concerns.

Consumer Protection Laws: Suggest reviewing the adequacy of state and federal consumer protection laws in electronic commerce.

Spam: Its continued growth fuels increasing notoriety and annoyance, and accordingly demands continued attention from JCOTS. Suggest focusing on concrete objectives, such as defining "unsolicited."

Child pornography database: The Commonwealth recently passed legislation to create a database of confirmed images of child pornography to aid in the fight against child pornography. Suggest monitoring the database's implementation and use.

CYBERLAW

ISSUE: As the world around us has changed with the development and use of new and innovative technologies, new laws have been written to attempt to keep pace. However, many legislatures have also looked backward to reassess the applicability of existing laws to the changes brought about by these new technologies and developments. To accomplish this task, the Commonwealth has made a number of changes to its laws to accommodate these developments including redefining a writing to include electronic documents, and recognizing the validity of electronic signatures and electronic contracts.

CHARGE: To review the laws of the Commonwealth regarding their applicability to the information age and beyond, and recommend appropriate changes.

TOPICS: UCITA: This Act became effective on July 1, 2001. Since then, NCCUSL --the drafters of the model law-- have continued to hold hearings and propose amendments. Suggest discussing these amendments and whether they are appropriate for Virginia.

Identity theft: In spite of a Commission meeting and an Attorney General's task force on this subject last year, identity theft's continued growth merits consideration. During the 2003 session, the Commonwealth adopted a number of laws governing the use of social security numbers, a key identifying number for individuals. Suggest reviewing existing Commonwealth law in this area, as well as new laws of other states and the US.

INTEGRATED GOVERNMENT (I-GOV): THE FUTURE OF GOVERNMENT IN THE ELECTRONIC AGE

ISSUE: The Commonwealth is recognized nationally and internationally as a leader in the development of what has become known as electronic government. However, the Commonwealth has also evolved beyond merely digitizing the services and materials it has always offered to re-thinking its underlying policies and processes. This re-thinking (integrated government or I-Gov) involves integrating paper- and jurisdiction-based governmental processes. At its core, it contemplates a transformation from the way government operated prior to the information age.

CHARGE: To explore the issues raised by this transformation of government.

TOPICS: VITA implementation: This is an essential role for JCOTS.

Procurement reform: Last year's I-Gov Advisory Committee held off on making several recommendations due to the administration's procurement reform efforts. Suggest reviewing the administration's progress.

Electronic communication meetings: Suggest monitoring the legislature's use of videoconferencing.

New Model Law - Uniform Real Property Recordation Act

THE HARD SCIENCES

ISSUE: The Commonwealth's economy relies on a number of growing and diverse industries. In addition to information technology industries, the Commonwealth has growing industries in biotechnology, nanotechnology and other sciences. As research and development budgets begin to rebound and federal spending on research and development increases (due, in large part, to new Homeland security spending), the Commonwealth is poised to reap many of the benefits.

CHARGE: To evaluate the economic environment and capabilities of the Commonwealth to contribute to and benefit from the growth of new technologies and industries.

TOPICS: Internet II: Pursuant to HJ653, JCOTS was asked to "study the development of an Internet II Advanced Performance Standard Initiative."

Nanotechnology: Suggest discussing what the legislature can do to further promote the development of this industry.

Biotechnology: Suggest discussing what the legislature can do to further promote the development of this industry and reviewing the work of the Governor's Biotechnology Initiative and potential legislation.

Physical sciences/The Science Museum of Virginia: Suggest discussing what the legislature can do to further promote the development of this industry.

Disease management: Over the last several years, several diseases from strep throat to pneumonia to influenza have mutated and killed people in the Commonwealth. More recently, Severe Acute Respiratory Syndrome (SARS) has spread throughout the world at an alarming pace leaving illness and death in its wake. Suggest studying the Commonwealth's ability to detect naturally occurring and manmade epidemics.

Issues to Actively Study through Commission Meetings

HOMELAND SECURITY (SPECIAL COMMISSION MEETING IN AUGUST)

The United States has faced numerous acts of terrorism over the last 20 years from the mid-air destruction of Pan Am Flight 103 over Lockerby, Scotland to the 1993 attack on the World Trade Center, from the destruction of the U.S. embassies in Nairobi, Kenya and Dar-es-Salaam, Tanzania in 1998 to the 2000 attack on the U.S.S. Cole. The most devastating attacks had always taken place on foreign soil – that is, until September 11, 2001. No one will ever forget where he was when four U.S. airplanes were hijacked from two U.S. airports and slammed into both towers of the World Trade Center, the Pentagon and a field in rural Pennsylvania.

America changed on that day. Not since the Japanese attacked Pearl Harbor in 1941 had the security of the homeland been such a concern to the general public. Today, it has become such a concern that the federal government created the Office of Homeland Security as a Cabinet-level agency and virtually every state has created a comparable office. This concern extends beyond the federal and state governments to the private sector and the first responders, local government. Moreover, Virginia is acutely aware of homeland security due to the events of September 11, 2001, its proximity to Washington, D.C., and the numerous federal employees living, working, or both, in Washington.

Suggest briefing the Commission on state and federal homeland security developments, and related opportunities for Virginia businesses and public institutions of higher education. Meeting likely would be held in Northern Virginia (Raytheon is a possible host) and possibly videoconferenced with other sites around the Commonwealth; members of public and private sectors would make presentations.

DNA

The use of DNA evidence as a means to both convict and exonerate criminals is drawing increased attention as the underlying technology becomes more widely available. In the last two years, Virginia has seen at least two convicts exonerated of their crimes based upon DNA evidence, and this number will only grow as more and more tests are performed.

Suggest briefing the Commission on the basic technology and processes related to DNA evidence, and the factors necessary for DNA evidence to be reliable. Meeting would be held in Richmond, the forensics lab, and possibly members of public and private sectors, would make presentations.

REMOTE SALES TAX AND THE INTERNET TAX FREEDOM ACT

How much sales tax revenue is Virginia *really* losing as a result of retail transactions conducted online? What is the current status of the streamlined sales tax project? What is the current status of the Internet Tax Freedom Act? Should it become permanent?

Suggest briefing the Commission on the real story. Meeting would be held in Richmond, JCOTS staff, and possibly members of public and private sectors, would make presentations.

CHARLOTTESVILLE'S SCIENCE AND TECHNOLOGY ASSETS (SPECIAL MEETING IN SUMMER)

Three Charlottesville area entities --the Insurance Institute of Highway Safety, UVA's Nanotechnology Lab, and the Highway Research Facility-- are conducting exciting research, much of which can be applied today, or may be used to help build new industries down the road.

Suggest briefing the Commission on the research being conducted by these entities, its purpose and applications, and its possible impact on Virginia's future. Meeting would be held in Charlottesville, and employees of the entities would make presentations.

ADMINISTRATION UPDATE

The Code requires the Secretary of Technology, the Chief Information Officer and the President of the Center for Innovative Technology to work with and/or report to the Commission on their initiatives and plans. Suggest a brief update on administration's work from these organizations.

FUTURISTS (TIME PERMITTING)

Futurists have many interesting --and possibly provocative-- perspectives on how the future is being shaped now, and what the future holds in general.

Suggest briefing the Commission on how Virginia figures in the future, and what the legislature may do now to better position the state later. This issue probably would comprise only part of a meeting. Meeting would be held in Richmond, and members of public and private sectors would make presentations.

Studies to Monitor

- H.J.R. 631 - Continues ~~the~~ joint subcommittee studying the protection of **court records** to review the findings and recommendations of the Executive Secretary of the Supreme Court concerning information in court records and recommend necessary changes in the statutory law.
- S.J.R. 347 - Establishes the **Commission on the Revision of Virginia's State Tax Code and the Streamlined Sales Tax Project Agreement** to (i) examine the allocation of state and local government services and responsibilities; (ii) conduct a comprehensive review of the revenue impact of all tax preferences, including subtractions, deductions, credits, and exemptions; (iii) evaluate the tax rates for all major state taxes to determine their sufficiency and appropriateness in the modern economy; and (iv) consider the appropriateness of adopting the policies in the Streamlined Sales Tax Project Agreement and identify and evaluate changes that may be needed in Virginia's sales and use tax laws to facilitate Virginia's compliance with the agreement should the General Assembly decide to adopt such policies.

Appendix 2

2003 - 2004 JCOTS Calendar

All meetings will be in House Room D, unless otherwise specified.

- **May 21** - Organizational Meeting (10 a.m.)
- **July 8** – Cyberlaw Advisory Committee (1st Meeting) (9:00 a.m.)
Also to be teleconferenced from 510 Cumberland St., Suite 308, Bristol, VA 24201.
- **July 22**– Integrated Government Advisory Committee (1st Meeting) (9:30 a.m.)
- **August 5** - Consumer Protection Advisory Committee (1st Meeting) (9:30 a.m.)
- **August 6** – The Hard Sciences Advisory Committee (1st Meeting) (1:30 p.m.)
- **August 19** - Commission Meeting on *Homeland Security* (9:30 a.m. Senate Room A – Videoconference sites in Reston and Lynchburg; Teleconference site in Bristol)
- **September 2** - Cyberlaw Advisory Committee (2nd Meeting) (9:30 a.m.)
Also to be teleconferenced from 510 Cumberland St., Suite 308, Bristol, VA 24201.
- **September 3** - Integrated Government Advisory Committee (2nd Meeting) (1:30 p.m.)
- **September 10** – Commission Field Trip to Charlottesville
- **September 16** - Consumer Protection Advisory Committee (2nd Meeting) (9:30 a.m. - SRA)
- **October 7** - Cyberlaw Advisory Committee (3rd Meeting) (9:30 a.m.)
Also to be teleconferenced from 510 Cumberland St., Suite 308, Bristol, VA 24201.
- **October 8** - Integrated Government Advisory Committee (3rd Meeting) (1:30 p.m.)
- **October 21** - Consumer Protection Advisory Committee (3rd Meeting) (9:30 a.m.)
- **November 18** - The Hard Sciences Advisory Committee (2nd Meeting) (9:30 a.m.)
- **December 2** - Consumer Protection Advisory Committee (4th Meeting) (8:30 a.m.)
- **December 2** - Commission Meeting (10 a.m. - GAB) (*Topic: 2004 Legislative Proposals*)
Also to be teleconferenced from 510 Cumberland St., Suite 308, Bristol, VA 24201.

Appendix 3

JCOTS 2003 Advisory Committees¹ (Final 12/31/2003)

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Senator Ticer, Senator Bolling, Delegate Christian

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¹ Numbers in parentheses represent the number of non-Commission members on each committee.

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Delegate Nixon, Senator Howell, Delegate Purkey

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Appendix 4
I-Gov Short-Term Goals Matrix
09/03/03

No.	Source(s)	Goal	Explanation	Statutory or Administrative	PRELIMINARY VITA PROREFORM ADMINISTRATIVE PROPOSALS
1	Ron Jordan Craig Kennedy Fred Norman	Revise state procurement manual	-Allow educational communication -Include the estimated budget for the procurement -Include evaluation weighting	Administrative	<ul style="list-style-type: none"> • VITA released its <i>"Buying Smarter, Faster, Better: VITA's Guide to Technology Procurement"</i> on July 1, 2003. • VITA is exempt from DGS's Vendors Manual and APSPM for IT procurements.
2	Ron Jordan Chris Law Fred Norman	Standardize terms and conditions	-Reasonable limitation of liability clause	Administrative	<ul style="list-style-type: none"> • VITA has adopted a revised limitation of liability clause which limits the industry partner's liability for damage to government property to 2X the value of the contract or annual value of the contract or \$1M (depends on contract) whichever is greater. • T's and C's are becoming standardized and will be linked to commodity codes. • T's and C's templates grouped per commodity code will be web-enabled for reference by the vendor community.
3	Chris Law	Standardize contracts	-Negotiate once, not every project -Focus on negotiating Statement of Work/Deliverables	Administrative	<ul style="list-style-type: none"> • VITA is utilizing increased use of statewide contracts and catalog purchasing. These types of contracts will be rebid at pre-scheduled periods. • Standardized T's and C's as well as template IFB & RFP procedures (which will not vary with each solicitation) will increase standardization.

No.	Source(s)	Goal	Explanation	Statutory or Administrative	PRELIMINARY VITA PROREFORM ADMINISTRATIVE PROPOSALS
4	Ken Anderson Greg Phillips Ron Jordan	Allow Term contracts for IT services	- A term contract for firms would allow firms to bring all of their expertise, experience, and flexibility to bear in accomplishing specific tasks. They are then held accountable for results. -E.g. Ohio approach uses GSA schedule contract price as benchmark.	Administrative	<ul style="list-style-type: none"> VITA has begun to adopt several variations for contracts for COVA IT services including a vendor-management solution or asking for a vendor partnership solution. VITA recently awarded the Advanced IT Resource Services Contract that emphasized contractor solutions and partnerships.
5	Ron Jordan Greg Phillips	Develop a task order/mini RFP process	-For small projects -North Carolina approach -Solution-oriented contract	Administrative	<ul style="list-style-type: none"> A task order/mini RFP process is a central component of VITA's new IT procurement process and this can be accomplished easily through the online RFP process in eVA. Prequalification of vendors for certain commodity codes will also allow the online RFP process to be faster and more solution-oriented. This will increase productivity and responsiveness while decreasing labor and paper-driven processes. eVA provides e-Mall and catalog-type functionality which can be adapted for this purpose.
6	Dan Galloway Joy Hughes Greg Phillips	Allow agencies to piggyback on beneficial contracts established by other entities	-Contracts by entities such as GSA, state and local govt., VDOT and higher education (e.g. VASCUPP).	Administrative	<ul style="list-style-type: none"> The 2003 amendment to the cooperative procurement statute (§2.2-4304) will allow piggybacking of public contracts meant for "public bodies."
7	Ken Anderson	Allow professional procurement procedures for some specific types of information technology services	-Some information technology services are much like professional services (e.g., accounting, architecture, etc.) yet the Code does not allow this procedure since it is limited to those specifically designated as professional services.	Statutory	

No.	Source(s)	Goal	Explanation	Statutory or Administrative	PRELIMINARY VITA PROREFORM ADMINISTRATIVE PROPOSALS
8	Ben Lewis Fred Norman	Establish a pre-approved vendor list.	-Vendors accepted through any competitive process should be pre-qualified for other contracts. -Similarly, if vendors are awarded and successfully complete a competitively award contract, they should have the ability to be added to a blanket contract every year.	Administrative	<ul style="list-style-type: none"> • VITA will be utilizing the RFI process to prequalify our industry partners for certain commodity codes and in certain service categories. • VITA will prequalify our industry partners for participation in reverse auctions. • Some of this prequalification will be achieved through prenegotiated master contracts.
9	Fred Norman	Pre-approve out-of-state vendors	-Amend the Fair Procurement Act to allow vendors, their products and services, selected through competitive bid process in other states, and, that agree to Virginia's Terms and Conditions to be added to Virginia's approved vendor, products and services lists.	Statutory	
10	Fred Norman	Increase the dollar thresholds associated with particular procurements	-Increase the dollar thresholds that determine when each type of procurement procedure is required, increasing procurement cards purchasing limits accordingly.	Statutory	
11	Dan Galloway	Create a library of RFPs and IFBs	-Drawn from state agencies as well as local governments so that government organizations do not have to "reinvent the wheel" every time they need to do a major IT procurement.	Administrative	<ul style="list-style-type: none"> • All RFPs & IFBs will be in web-enabled template forms tied to commodity codes. • Template forms will only change on a pre-scheduled basis and will be available via the web. • Industry partners will know if they are interested in bidding on a certain commodity, what the RFP or IFB will look like and the T's and C's standardized to that commodity code.

12	Dan Galloway	Extend the old DIT "Body Shop" contract	-Extend at least through the end of this fiscal year. This will allow those organizations that are currently using consulting companies off that contract that did not get awarded the new contract enough time to develop a plan for a smooth transition to the use of other types of services, or to hire FTEs to replace these consultants if appropriate.	Administrative	<ul style="list-style-type: none"> • VITA has recently awarded its Advanced Resources for IT Services contract to 5 industry partners. • VITA has staff augmentation contracts with a myriad of industry partners to supplement agency IT staffing needs.
13	Joy Hughes	For "approval to purchase" process for large procurements, set measurable goals for timeliness of response	-Also, hold DTP accountable for meeting those goals; also raise the approval threshold significantly now that agencies are required to include all kinds of costs in their determination of project costs.	Administrative	<ul style="list-style-type: none"> • VITA is committed to providing an online process tracking system for all IT procurements that would be available to its customers and industry partners. • "Best practices" working time frames from receipt of complete specs to award will be established based on commodity code.
14	Fred Norman	Establish a vendor liaison with Secretary of Technology	-Would act as a single point of contact for IT vendors to navigate the maze of the Commonwealth.	Administrative	<ul style="list-style-type: none"> • The Secretary of Technology or the Information Technology Investment Board may more appropriately address this goal.
15	Fred Norman	Agencies provide timely notification of short list selections	-Once the short list is chosen, it should be published and vendors notified so that they can commit resources to other projects instead of being left waiting for an answer.	Administrative	<ul style="list-style-type: none"> • Although VITA is attempting many solutions to decrease the time involved for its industry partners in IT procurements, including prequalification, developing a "short list" is still under review. • Publishing a "short list" of "intended awards" may leave VITA open to protest before negotiations are complete and a true decision to award has been made.
16	Chris Long	Initial review of whether service or good being procured is an appropriate role for government	-Commonwealth should consider whether government should be involved in the function before it seeks to procure goods or services to achieve it. That review should be based on merit and appropriateness of the function and requires openness and public comment.	Administrative	<ul style="list-style-type: none"> • This requires a policy determination that is outside of VITA's statutory IT procurement responsibilities. • §2.2- 2012(c) requires VITA to be procurement vehicle for all IT.

No.	Source(s)	Goal	Explanation	Statutory or Administrative	PRELIMINARY VITA PROREFORM ADMINISTRATIVE PROPOSALS
17	Diane Horvath Bud Oakey	Establish IT procurement best practices		Administrative	<ul style="list-style-type: none"> • VITA's recommendations are based on the following "best practices" for IT procurement:: • Use of technology brokering services, when appropriate. • Solution-oriented IFBs and RFPs • Value-based purchasing – the state buys the best IT solution available, not the one that costs the least. • Long-term strategic partnerships with qualified industry partners. • Shared risks and benefits between the state and its industry partners. • Pool of qualified industry partners. • Enterprise-wide architecture for COVA.

I-Gov Long-Term Goals Matrix

No.	Source(s)	Goal	Explanation	Statutory or Administrative	PRELIMINARY VITA PROREFORM ADMINISTRATIVE PROPOSALS
1	Ron Jordan	Enact a Public-Private Technology Partnership Act	<ul style="list-style-type: none"> -Allow unsolicited proposals -Encourage vendor consortiums -State does not have the general fund resources to successfully develop, implement and operate large ERP projects/systems 	Statutory	<ul style="list-style-type: none"> • "Technology infrastructure" was added as a "qualifying project" under the PPEA in the 2003 General Assembly session. (HB 1925, Patron: Nixon).
2	Ron Jordan Bud Oakey	Establish a Technology Trust Fund similar to Higher Education Trust Fund for Technology	<ul style="list-style-type: none"> -Debt financing for major general fund projects and for technology upgrades -Direct appropriations to the fund buy-down the cost of borrowing by agencies -Agencies repay loans through operating appropriations on a pre-determined basis -Assures funding continuity for general fund multi-year projects without getting caught in the budget process each year. 	Statutory	
3	Ron Jordan	Establish a single entity and review process	<ul style="list-style-type: none"> -Review the business case and agency capacity -Review the total cost of ownership or return on investment as appropriate -Monitor progress on an exception basis 	Administrative	<ul style="list-style-type: none"> • This goal is being addressed b VITA' s Strategic Management Services division.
4	Bud Oakey Bruce Wine	Replace the existing state PC contract with a subscription to WSCA.	<ul style="list-style-type: none"> -Western States Contracting Alliance (WSCA) is a contracting vehicle available to all government entities where the volume of purchases is pooled with other members of the alliance to obtain the very lowest prices. Over 30 states including Louisiana and Georgia currently use WSCA nearly exclusively. Over \$2Billion has been purchased through WSCA since October of 1999. 	Administrative	<ul style="list-style-type: none"> • VITA's research reveals a 3-4% across the board savings could be possible for purchases made through WSCA vs. COVA present negotiated volume discounts. • VITA is conducting an ongoing evaluation whether it would be more beneficial to COVA to join WSCA (and diminish its IFA recovery)/develop a WSCA-like entity with a beneficial IFA recovery mechanism.

Appendix 5

2004 LEGISLATION WITH TECHNOLOGY OR SCIENCE CONTENT (ALPHABETICALLY BY SUBJECT MATTER)

Legislation recommended by the Joint Commission on Technology and Science is in **bold**.
Passed legislation is *italicized*.

	House Bill	HJ	HR	SB	SJ	Totals
Introduced	132	25	1	55	8	221
Passed	71	13	0	34	4	122
Failed	61	12	1	21	4	99

2004 Legislation with Technology and Science Content

Commerce (44)

- HB 88 Entrepreneurial Encouragement Program; created for start-up businesses.
- HB 246 Retail Sales and Use Tax; applicable to telephone calling cards.*
- HB 256 Gift cards and gift certificates; disclosures of rules for issuance.
- HB 263 Credit card and other open-end accounts; cancellation, notification and liability.
- HB 266 Prescription claims; electronic funds transfers to pay benefit provider.
- HB 282 Income tax, state; qualified equity and subordinated debt investment tax credit.*
- HB 541 Entrepreneurial support network; CIT to develop statewide focus for development thereof.
- HB 547 Higher educ. inst. & industry; development of policies and strategies to eliminate barriers between.*
- HB 548 Uniform Computer Information Transactions Act (UCITA); changes in provisions.***
- HB 689 Telephone Privacy Protection Act; prohibits telephone solicitation to persons on Do-Not-Call Registry.*
- HB 694 Biodiesel fuel; minimum content in diesel fuel.
- HB 788 Retail Sales & Use Tax Act; renamed Streamlined Sales & Use Tax Act to conform w/national agreement.
- HB 798 Telephonic reading services; created.*
- HB 938 Telephone companies; local exchange service competition policy.
- HB 1156 Payday loans; use of Internet database for borrowers, restric. on loans made to spouses of military.
- HB 1159 Income tax, state; electronic filing by tax preparers.*
- HB 1164 Income tax, corporate; credit for teleworking.

- HB 1174 *Telecommunications and video taxation; proposed changes.*
- HB 1188 Retail Sales & Use Tax; exemptions include tangible, personal property or services acquired through Internet.
- HB 1189** ***Credit cards; contract formation, occurrence of transaction.***
- HB 1372 Product liability; exemption for products containing open and obvious dangers.
- HB 1375 Retail Sales and Use Tax; exemptions for certain contractors.
- HB 1463 *Retail Sales and Use Tax; constitutional nexus for imposition.*
- HB 1488 Sales and use tax exemptions; commercial and industrial.
- HJ 20 Stem cell research; joint subcom. to study medical, ethical, & scientific issues relating thereto.
- HJ 39 Businesses; joint subcommittee to study economic development and retention thereof.
- HJ 83 Reproductive technology, assisted; Joint Comm. on Health Care to study practices & ethical issues.
- HJ 84 Reproductive technology, assisted; joint subcommittee to study regulation of embryo laboratories.
- HJ 120 *Nanotechnology research and economic development opportunities; Joint Commission on Technology & Science to identify.*
- HJ 130 North American Free Trade Agreement & World Trade Organization; U.S. to withdraw.
- HJ 176 *Retail Sales and Use Tax, remote; joint subcommittee to study impact of collection on economy.*
- SB 116 Electric utility restructuring; municipal and state aggregation.
- SB 117 Electric utility providers; minimum stay requirement by commercial and industrial customers.
- SB 119 *Uniform Commercial Code; revisions concerning electronic documents of title.*
- SB 232 Economic Development Incentive Act; created.
- SB 282 Telephone companies; filing a cost allocation manual.
- SB 514 Retail Sales & Use Tax Act; renamed Streamlined Sales & Use Tax Act to conform w/national agreement.
- SB 632 *Retail Sales and Use Tax; exemptions include software and content delivered electronically.*
- SB 646 *Biotechnology Commercialization Loan Fund; created, report.*
- SB 659 *Sunday closing laws; abolishes "Blue laws."*
- SB 668 *Retail Sales and Use Tax; constitutional nexus for imposition.*
- SB 673 Voice-over-Internet Protocol; exempt from regulation by State Corporation Commission.
- SJ 40 North American Free Trade Agreement & World Trade Organization; U.S. to withdraw.
- SJ 53 Retail Sales & Use Tax, remote; joint subcommittee to study impact of collection on economy.

Criminal Law and the Courts (27)

- HB 118 *Wiretaps; expands crimes for which Attorney General may apply for orders.*

HB 130 Stalking; penalty for subsequent offenses.
 HB 170 False discount coupon; penalty for use, definition.
 HB 184 *Malicious bodily injury; penalty by means of an infectious biological subst. or radiological agent.*
 HB 214 *Amber Alert system; use.*
 HB 255 Cell phones; prohibits use while driving.
 HB 397 Video or computer games; prohibits sale of those with violent content.
 HB 509 *Circuit court clerks; conversion of papers in ended cases.*
 HB 566 Computer trespass; applicable to adding or altering information without authority.
 HB 650 *Wire, electronic or oral communications; penalty for illegal interception.*
 HB 663 *Filming, videotaping or photographing of another; penalty when permission not given.*
 HB 722 Credit card theft; what constitutes.
 HB 786 *Driving under influence of alcohol or drugs; procedure for taking blood samples.*
 HB 977 *Circuit court records; fees allowed for remote access.*
 HB 1053 Criminal penalties; revision throughout Code.
 HB 1058 *Forfeiture statutes; transfer to criminal procedure code.*
 HB 1125 *Computer crimes; penalty when committed by adults.*
 HB 1478 Concealed handguns; procedure for obtaining permit.
 HJ 79 *Mistaken identification in criminal cases; Crime Commission to study.*
 HJ 288 *Supreme Court of Virginia; encouraged to amend Rules of Court on electronic filing.*
 HJ 517 Judges; election in circuit court, general district court, & juv. & dom. rela. district court.
 SB 241 *Land records; use of secure remote access, increases Technology Trust Fund Fee.*
 SB 250 Wire, electronic or oral communications; no penalty if parties consent to interception.
 SB 275 Computer trespass; applicable by means of a computer virus.
 SB 325 *Counterfeit controlled substance; definition.*
 SB 575 *Child pornography; penalty for solicitation, registration as a sex offender.*
 SB 634 *Applicant Fingerprint Database; created for State Police to use in criminal background checks.*

Privacy and Identity Theft (33)

HB 157 Secure Identification Act; created.
 HB 179 Personal information; prohibits posting certain on Internet.
 HB 229 Power of attorney; acceptance of social security numbers.
 HB 305 Assisted reproductive technology program; disclosure of gamete donors.
 HB 332 *Power of attorney; removal of social security numbers from instrument.*
 HB 382 *Concealed handguns; confidentiality of social security numbers in permit applications.*
 HB 487 Freedom of Information Act; record exemption for owner/operators of aircraft.
 HB 537 ***Credit cards transactions; printing of information on receipts.***
 HB 538 *Freedom of Information Act; exempts numbers for cell phones, pagers, etc., of law-enforcement personnel.*

- HB 543** *Government Data Collection & Dissemination Practices Act; use of unique identifying numbers limited on public records.*
- HB 697 Event data recorders in motor vehicles; manufacturers to disclose.
- HB 753** **Personal Information Privacy Act; restricting use of social security numbers.**
- HB 872 *Identity theft; identification, issuance of an Identity Theft Passport.*
- HB 876 *Mental health information; disclosure.*
- HB 877 *Health records; procedure for certain patients to obtain access to their records.*
- HB 878 *Health records; access by guardians ad litem and attorneys representing minors and certain adults.*
- HB 879 *Health records; privacy provisions.*
- HB 948 Court documents; abbreviated social security number of judgment debtor.
- HB 1304 Invasive technologies; public bodies to conduct analysis when authoriz. or prohibiting use, report.
- HB 1330 *Government databases and data communications; reporting of incidents that threaten security.*
- HB 1383 *DMV records; access by insurance companies.*
- HB 1389 Land records; penalty for providing remote access without written certification of compatibility.
- HB 1424 *Personal Information Privacy Act; restricting use of date of birth as conditi. for accepting checks.*
- HJ 134 *Health records; Joint Commission on Health Care to study use and disclosure thereof.*
- HJ 162 *Smart driver's licenses and identification cards; joint subcommittee to study issuance.*
- HJ 206 Constitutional amendments; intrusion & invasion of privacy unreasonable searches and seizures.
- SB 224 *Medical treatment options; physician disclosure.*
- SB 293 Foreign personal identification cards; acceptance.
- SB 297 *Freedom of Information Act; exempts numbers for cell phones, pagers, etc., of law-enforcement personnel.*
- SB 305 Tax information; does not prohibit release of information to persons who are subject thereof.
- SB 336 *Judicial Inquiry and Review Commission; removes confidentiality of evidence concerning a judge.*
- SB 337 *Health records; privacy, access, etc.*
- SB 344 *Telephone Privacy Protection Act; prohibits telephone solicitation to persons on Do-Not-Call Registry.*

State and Local Government (105)

Local Government (11)

- HB 189 Library computers; juveniles' Internet access.
- HB 372 *Utility tax; imposition on local consumers in Towns of Herndon and Vienna for mobile phone usage.*

HB 411 Electronic pollbooks and registration inquiry devices; use by localities.
HB 475 Libraries; use of technology protection measures.
HB 769 Career and technical education; to be included in curriculum.
HB 873 Alert and warning system; localities to establish in event of emergency or disaster.
HB 919 Water and sewer authorities; conduits for fiber optic cable.
SB 14 Utility tax; imposition on local consumers in Town of Iron Gate for mobile phone usage.

SB 280 Cable television services by certain localities; provisions.
SB 316 Utility tax; imposition on local consumers in Towns of Herndon and Vienna for mobile phone usage.

SB 627 Utility tax; imposition on local consumers in Towns of Vienna and Clifton for mobile phone usage.

Procurement (20)

HB 148 Public-Private Education Facilities & Infrastructure Act; provisions for performance & payment bond.

HB 165 Procurement Act, Public; consolidation of contracts.
HB 243 Procurement Act, Public; preference for goods made in United States.
HB 262 Procurement Act, Public; women- and minority-owned business participation.
HB 315 Procurement Act, Public; preference for Virginia products and firms.
HB 470 Procurement Act, Public; includes online auctions and U.S. General Services Administration.

HB 478 Information technology and telecommunications procurement; exempts UVa Medical Center.

HB 508 Computers; teachers may purchase on state contract for use outside classroom.
HB 749 Procurement Act, Public; cooperative procurement with U.S. General Services Administration.

HB 842 Virginia Information Technologies Agency (VITA); use of open source software.
HB 1010 Procurement Act, Public; contracts with only U.S. citizens, legal aliens, etc.
HB 1040 Procurement Act, Public; public notice of Request for Proposals.
HB 1043 Competitive Government Act; created, reports.
HB 1145 Procurement Act, Public; small, and women- and minority-owned business participation.

HB 1360 Information technology & telecom. procurement; shall be in accordance with accessibility standards.

HJ 93 Procurement Act, Public; joint subcommittee to study.
SB 95 Procurement Act, Public; includes online auctions and U.S. General Services Administration.

SB 151 Procurement Act, Public; preference for goods made in United States.
SB 302 Procurement Act, Public; cooperative procurement with U.S. General Services Administration.

SB 598 Procurement Act, Public; small, and women- and minority-owned business participation.

State Government (74)

- HB 9 Business-Education Partnership Program and Advisory Council on; abolished.*
- HB 29 Budget Bill. Additional appropriations for 2002-2004 biennium.*
- HB 30 Budget Bill. Appropriations for 2004-2006 biennium.*
- HB 106 Statewide Agencies Radio System (STARS); financing through bonds and vehicle rental fees.*
- HB 276 Unclaimed property; electronically filing of reports.*
- HB 354 Assistive Technology Loan Fund Authority; powers.*
- HB 358 Freedom of Information Act; posting of notice of rights and responsibilities by state public bodies.*
- HB 384 State agencies; Governor to initiate a financial and management review.*
- HB 415 Emergencies and disasters; Governor to conduct an annual statewide drill on response thereto.*
- HB 465 Public records; treasurer may impose a remote access fee to cover operational expenses.*
- HB 466 Unclaimed property; notice of public sale through post, print, electronic media, etc.*
- HB 544 "Virginia is for Technology" marketing campaign; to be developed to attract businesses.*
- HB 545 Integrated research & academic campuses; Research & Technology Advisory Commission continue its examination of establishing.*
- HB 546 Technology programs; Secretary of Technology to monitor, and to report on broadband communication. trends.*
- HB 617 Distance learning; development and use in higher educational institutions.*
- HB 708 Economic Development Partnership Authority; duties relating to businesses relocating to State.*
- HB 783 Controlled substances; eliminates certain required inventory by Division of Forensic Science.*
- HB 799 Voting devices and systems; expert review.*
- HB 837 Election laws; changes in voter equipment and technology.*
- HB 932 Advanced Learning and Research, Institute for; increases membership of governing board.*
- HB 933 Advanced Learning and Research, Institute for; designated an educational institution.*
- HB 987 Electronic voting systems; to be equipped with voter-verified paper ballots.*
- HB 1000 Mason Enterprise Center of George Mason University; duties, abolishes Innovative Technology Authority.*
- HB 1009 Educational Ventures Consortium; created.*
- HB 1017 Absentee ballots; applications may be made on line.*
- HB 1023 Absentee ballots; applications may be made on line.*
- HB 1094 State agencies; establishment of alternative work schedule and telecommuting policy.*
- HB 1100 Budget Bill; state special funds not to be used for any other purpose.*

HB 1200 Electronic voting systems; to be equipped with paper copy record of votes.
 HB 1213 *Rural Virginia, Center for; created.*
 HB 1231 *Collegial bodies; changes and conformity of provisions.*
 HB 1282 Voter registration cards; not to be used as evidence of identity or residence.
 HB 1357 *Freedom of Information Act; exempts certain meetings of General Assembly.*
 HB 1364 *Freedom of Information Act; exempts certain emergency service records.*
 HB 1380 Freedom of Information Act; includes electronic communication meetings of local public bodies.
 HB 1386 Biotechnology Research Park Authority; renamed Biotechnology Research Partnership Authority.
 HB 1467 Broadband communications services; Secretary of Technology to monitor trends.
 HJ 3 Constitutional amendment; Governor's term of office (first reference).
 HJ 6 *Public Records Act; j.s. to study, including electronic records & effect on state depository system.*
 HJ 13 *Governor, two-term; js to study appropriate bal. of power between leg. & exec. branches to support.*
 HJ 105 *School infrastructure for K-12; joint subcom. to study level of assistance to local. nec. for devel.*
 HJ 168 *Great Virginia Teach-In; designating as March 27-28, 2004.*
 HJ 172 *Income tax; JLARC to collect data & info. from states replacing revenues w/sales & use tax revenues.*
 HJ 174 *Voting equipment; joint subcom. to study certif. process, performance, and deployment thereof.*
 HJ 177 National Lambda Rail Advanced Performance Standard Initiative; Joint Commission on Technology & Science to study.
 HJ 190 Constitutional amendments; votes required for increase in taxes (first reference).
 HJ 198 Videoconferencing equipment; Clerks of House of Delegates and Senate to collect data on cost savgs.
 HJ 324 *Commending the Virginia Technology Student Association.*
 HR 3 House of Delegates; procedures governing live television coverage of sessions.
 SB 3 *Special funds; abolishes those that are dormant and their associated programs.*
 SB 9 *Employment Commission; eliminates requirement for development of workforce plan during times of economic recession, etc.*
 SB 29 Budget Bill. Additional appropriations for 2002-2004 biennium.
 SB 30 Budget Bill. Appropriations for 2004-2006 biennium.
 SB 39 *Statewide Agencies Radio System (STARS); financing through bonds.*
 SB 102 Electronic voting systems; requirements.
 SB 137 Electronic voting systems; to be equipped with paper copy record of votes.
 SB 161 *Computers; disposition of surplus equipment.*
 SB 171 *Wireless E-911 Fund; provisions for payments.*
 SB 182 Freedom of Information Act; exempts certain maps in geographic information systems.
 SB 278 *Telemedicine initiatives; abolishes reporting requirements by Commissioner of Health.*

SB 313 Election laws; changes in voter equipment and technology.
SB 352 Freedom of Information Act; reorganization of record exemptions.
SB 407 Rural Virginia, Center for; created.
SB 565 Health-related data elements; Secretary of Health & Human Resources to create a reference database.
SB 599 Retirement System; electronic communication to State and local members.
SB 608 Statewide Agencies Radio System (STARS); Secretary of Public Safety to implement.
 SB 689 Senate; prohibits use of television or other electronic signals generated thereby for political or commercial purposes.
 SB 691 Legislative appointments; definition of nonlegislative citizen member.
 SJ 1 Public Records Act; joint sub. to study, electronic records & effect on state deposit system.
 SJ 28 Educational technology funding; joint subcommittee to review feasibility of implementation thereof.
SJ 101 Confirming Governor's appointments; commerce and trade.
SJ 102 Confirming Governor's appointments; education.
SJ 107 Confirming Governor's appointments; technology.
SJ 130 Supreme Court of Virginia; encouraged to amend Rules of Court on electronic filing.

Transportation and Motor Vehicles (12)

HB 19 Traffic signals; use of photo-monitoring in any locality.
HB 86 Driver's license; authorized copying by banks and financial institutions.
HB 87 Mobile infrared transmitters; certain prohibited.
 HB 155 Mobile infrared transmitters; certain prohibited.
 HB 287 "Smart Road" construction funds; allocation.
 HB 366 Mobile infrared transmitters; certain prohibited.
 HB 370 Traffic signals; abolishes sunset on use of photo-monitoring systems.
HB 887 Emissions inspections; exempts hybrid vehicles.
 SB 92 Traffic signals; use of photo-monitoring systems in any locality.
SB 148 Toll facilities; disclosure of data generated by automated electronic toll-collection systems.
 SB 176 Traffic signals; abolishes sunset on use of photo-monitoring systems.
 SB 581 Cell phones; prohibits use while driving.

Appendix 6

Final Summaries of 2004 Enacted and Adopted Legislation with Technology or Science Content

(In Numerical Order by HBs, HJR, SBs and SJRs)

Full Text of Legislation Appears in the 2004 Acts of Assembly

- BILL NUMBER:** House Bill 9
PATRON: Cox
SUMMARY: **Advisory Council on the Virginia Business-Education Partnership Program.** Abolishes the Advisory Council on the Virginia Business-Education Partnership Program and the Virginia Business-Education Partnership Program. The program was created in 1993 to assist local programs in obtaining federal funding to establish local business-education partnerships. The council was established at the same time to assist the Secretary of Education in implementing the program and facilitating the development of strategic partnerships between the public and private sectors to enhance public education and workforce training. State funding for the program ended in 2001 and federal funding ceased on December 31, 2003. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This bill incorporates House Bill 208.
- BILL NUMBER:** House Bill 29
PATRON: Callahan
SUMMARY: **Budget Bill.** Amends Appropriations Act of 2003, Chapter 1042.
- BILL NUMBER:** House Bill 86
PATRON: Cosgrove
SUMMARY: **Copying driver's licenses, etc.** Prohibits reproduction by photograph or otherwise of any driver's license, temporary driver's permit, learner's permit, or special identification card issued by the Department of Motor Vehicles (DMV) with the intent to commit an illegal act. Present law prohibits copying without permission of DMV (but makes no mention of illegal acts or special identification cards).

BILL NUMBER: House Bill 87
PATRON: Lingamfelter
SUMMARY: **Mobile infrared transmitters.** Prohibits operation by any person of a motor vehicle on the highways of the Commonwealth when the vehicle is equipped with a mobile infrared transmitter used to preempt or change the signal given by a traffic light. The bill also makes it illegal to sell any of these devices in the Commonwealth, except for uses permitted by the bill. The bill doesn't apply to law-enforcement, fire-fighting, life-saving, or rescue vehicles or ambulances responding to an emergency call or operating in an emergency situation, nor to any vehicle providing public transportation service in a corridor approved for public transportation priority by the Virginia Department of Transportation or the governing body of any county, city, or town having control of the highways within its boundaries. The bill incorporates House Bill 895, House Bill 366, and House Bill 155.

BILL NUMBER: House Bill 106
PATRON: Sherwood
SUMMARY: **Bonds; Virginia Public Building Authority.** Authorizes the Virginia Public Building Authority to issue bonds in the amount of \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the Statewide Agencies Radio System (STARS) and establishes a fee at the rate of two percent of the amount charged for daily rental vehicles, which revenues from such fee are dedicated for debt service payments on such bonds.

BILL NUMBER: House Bill 118
PATRON: Albo
SUMMARY: **Attorney General; wiretap orders.** Expands the list of crimes for which the Attorney General may seek a wiretap order to include crimes by mobs and crimes by gangs. Criminal sexual assault is included only for felony offenses that are not Class 6.

BILL NUMBER: House Bill 148
PATRON: Hargrove
SUMMARY: **Public-Private Education Facilities and Infrastructure Act of 2002.** Amends the Public-Private Education Facilities and Infrastructure Act of 2002 by requiring local public entities to have independent design professionals or other professionals to provide independent analysis of the project prior to proceeding under the Act.

BILL NUMBER: House Bill 184
PATRON: Oder
SUMMARY: **Malicious bodily injury; caustic substance.** Provides that maliciously and intentionally causing bodily injury to another by means of an infectious biological

substance or radiological agent is a felony punishable by confinement in a state correctional facility for five to 30 years

BILL NUMBER: House Bill 214
PATRON: Athey
SUMMARY: **Amber alert system; issuance of alerts.** Clarifies that the initial decision to make a local or regional Amber Alert is at the discretion of the local or regional law-enforcement officials, but the local or regional law-enforcement officials must provide information regarding the abducted child to the State Police prior to issuing the alert. The initial decision to make a statewide Amber Alert is at the discretion of the State Police.

BILL NUMBER: House Bill 246
PATRON: Petersen
SUMMARY: **Sales and use tax; telephone calling cards.** Makes telephone calling cards subject to the state sales and use tax and exempts them from all other state and local utility taxes.

BILL NUMBER: House Bill 276
PATRON: Purkey
SUMMARY: **Unclaimed property; electronic filing of reports.** Requires a person to electronically remit reports containing 25 or more items of funds or other property presumed abandoned in a format prescribed by the State Treasurer. The State Treasurer may waive this requirement when he determines, in his discretion, that it creates an undue hardship. Current law does not specify the format for remission.

BILL NUMBER: House Bill 282
PATRON: Purkey
SUMMARY: **Income tax; qualified equity and subordinated debt investment tax credit.** Reduces the annual revenue level required for a company to qualify for the credit from \$5 million to \$3 million; excludes companies from participating in the credit that have already successfully raised more than \$3 million in total investment capital; eliminates the availability of the credit to professional/institutional investors such as larger venture capital funds; and adjusts the tax penalties under the credit so they do not create disincentives to investment, and are in line with counterparts in competitive states. The provisions of the bill are effective January 1, 2005.

BILL NUMBER: House Bill 332
PATRON: Pollard
SUMMARY: **Recordation of instruments; social security numbers.** Provides that where the circuit court clerks have the power to decline to accept any instrument submitted for recordation that includes a grantor's, grantee's or trustee's social

security number, the attorney or party who submits the instrument has responsibility for ensuring that the number is removed from the instrument before it is submitted for recordation.

BILL NUMBER: House Bill 354
PATRON: Bryant
SUMMARY: **Assistive Technology Loan Fund Authority; powers.** Authorizes the board of directors of the Assistive Technology Loan Fund Authority to borrow money to carry out its statutory purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from fees and charges imposed by the authority and to provide for the payment of the same and for the rights of the holders thereof. The bill also adds a definition of bonds and contains technical amendments.

BILL NUMBER: House Bill 358
PATRON: Suit
SUMMARY: **Freedom of Information Act; posting by certain state public bodies; minutes.** Requires all state public bodies created in the executive branch of state government and subject to the Freedom of Information Act (FOIA) to make available certain information to the public upon request and to post such information on the Internet, including: (i) a plain English explanation of the rights of a requester under FOIA, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with FOIA; (ii) contact information for the person designated by the public body to (a) assist a requester in making a request for records or (b) respond to requests for public records; and (iii) any policy the public body has concerning the type of public records it routinely withholds from release as permitted by FOIA. The bill requires the Freedom of Information Advisory Council to assist state public bodies in the development and implementation of this information, upon request. The bill also specifies what information must be included in minutes of open meetings.

BILL NUMBER: House Bill 372
PATRON: Rust
SUMMARY: **Local telecommunication tax; the Towns of Herndon and Vienna.** Authorizes the Towns of Herndon and Vienna to impose the local tax on the purchase of telecommunication service and prohibits Fairfax County from simultaneously imposing such a tax within such towns. Under current law, such towns would have had to impose such tax on or before January 1, 2000, to continue to impose such tax in the manner provided.

BILL NUMBER: House Bill 382
PATRON: Lingamfelter
SUMMARY: **Concealed handgun permit applications; social security numbers.** Allows a clerk of court to withhold from public disclosure the social security number in a concealed handgun permit application in response to a request to inspect or copy such permit application. However, the social security number shall not be withheld from a law-enforcement officer acting in the performance of his official duties.

BILL NUMBER: House Bill 411
PATRON: Welch (by request)
SUMMARY: **Duties of State Board of Elections; electronic pollbooks.** Authorizes the State Board to provide a regional or statewide list of registered voters to those localities using electronic pollbooks or using electronic devices at polling place to check voter registration information.

BILL NUMBER: House Bill 415
PATRON: Lewis
SUMMARY: **Emergency Services and Disaster Law; annual statewide drill.** Requires the Governor to conduct an annual statewide drill on response to a large-scale natural disaster. The drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by the Governor. The bill also provides for the Governor to report to the chairs of the Committee on Militia, Police and Public Safety and the Senate Committee on General Laws on the results of the drill by December 31 of each year.

BILL NUMBER: House Bill 465
PATRON: Drake
SUMMARY: **Remote access fees; treasurers.** Allows local treasurers who provide electronic access to public records to charge a fee to cover operational expenses. The fee goes into a special nonreverting local fund.

BILL NUMBER: House Bill 466
PATRON: Drake
SUMMARY: **State Treasurer; sale of abandoned property.** Authorizes the sale of abandoned property other than money or other certificates of ownership through the use of electronic media. Expands the forms of notice of a public sale that is to occur outside the Commonwealth to include post, print, visual, telecommunications, or electronic media or any combination of those forms. All sales through the use of electronic media are deemed to be sales outside the Commonwealth.

BILL NUMBER: House Bill 470
PATRON: Nixon
SUMMARY: **Virginia Public Procurement Act; online auctions and the General Services Administration.** Adds online public auctions and the United States General Services Administration (GSA) as procurement sources available to public bodies. The bill also provides that state public bodies may purchase telecommunications and information technology goods and nonprofessional services from any contract maintained by GSA upon the approval of the Chief Information Officer. This bill is identical to Senate Bill 95.

BILL NUMBER: House Bill 478
PATRON: Nixon
SUMMARY: **University of Virginia Medical Center; procurement exemptions.** Extends the procurement exemptions granted to the University of Virginia Medical Center to information technology and telecommunications projects and exempts the Medical Center from the oversight of the Virginia Information Technologies Agency (VITA). The exemptions set out in this bill existed under prior law as in effect before transferring information technology and telecommunications procurement authority to VITA (successor to the Department for Information Technology). These exemptions were preserved as delegated authority in enactment clause 2 in Chapter 579 of the 2002 Acts of Assembly and clauses 15 and 16 of Chapters 981 and 1021 of the 2003 Acts of Assembly. The bill renders these exemptions permanent in the new law. The bill also adds a cross reference to the Virginia Public Procurement Act stating the exemption and updates other cross references.

BILL NUMBER: House Bill 508
PATRON: Marrs
SUMMARY: **Virginia Information Technologies Agency; contracts for personal computers.** Allows licensed teachers employed in a full-time teaching capacity in Virginia public schools or in state educational facilities to purchase personal computers for use outside the classroom on state contract. Currently, the ability to buy such personal computers is limited to public school teachers.

BILL NUMBER: House Bill 509
PATRON: Marrs
SUMMARY: **Courts of record; disposition of papers.** Allows the clerk of the circuit court to use an electronic format for the archival of records, papers, and documents of cases, as long as the clerk converts them in accordance with state electronic records guidelines.

BILL NUMBER: House Bill 537
PATRON: May
SUMMARY: **Improper use of payment device numbers.** Changes the deadline for old devices to comply with the prohibition on printing certain information on receipts from July 1, 2007, to July 1, 2005. In addition, the bill changes the prohibition of displaying certain information on payment device receipts from no more than the last five digits to no more than the last four digits. The bill also extends the prohibition to handwritten, imprinted and copied payment device numbers, except for the one original. The bill allows compliance by returning noncomplying copies to or destroying them in front of the payment device user. References to credit cards and debit cards were removed because the Congress preempted the law's application to credit card and debit card receipts with the reauthorization of the Fair Credit Reporting Act. See 15 U.S.C. 1681c(g) and 1681t(b)(5)(A).

BILL NUMBER: House Bill 538
PATRON: May
SUMMARY: **Freedom of Information Act; record exemption; cell phone numbers of law-enforcement personnel.** Provides that records of the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided by a law-enforcement agency to its personnel for use in the performance of their official duties are exempt from the mandatory disclosure requirements of the Freedom of Information Act. The bill is identical to SB 297.

BILL NUMBER: House Bill 543
PATRON: May
SUMMARY: **Government Data Collection and Dissemination Practices Act; unique identifying numbers limited on public records.** Prohibits filing or creating public records that contain more than the last four digits of any unique identifying number, unless such use is required by law or the record is exempt from disclosure. The bill defines unique identifying number as any alphabetic or numeric sequence, or combination thereof, that is unique and assigned to a specific natural person at that person's request and includes, but is not limited to, social security number, bank account number, credit card number, military service number and driver's license number. The bill excludes from this definition any arbitrarily assigned alphabetic or numeric sequence, or combination thereof, that is assigned to a natural person for purposes of identification, in lieu of social security numbers, and used for a single, specific government purpose. Either preparers or filers of such documents must certify that the document complies with this prohibition before the documents can be filed. The bill contains a reenactment clause.

BILL NUMBER: House Bill 545
PATRON: May
SUMMARY: **Academic research and advanced education enterprise.** Requires the Virginia Research and Technology Advisory Commission to continue its examination of establishing integrated research and academic campuses in the Commonwealth. The commission will conduct a feasibility study on building an academic research and advanced education enterprise in northern Virginia and Hampton Roads to provide a vehicle for multiuniversity collaboration and closer ties to industry.

BILL NUMBER: House Bill 546
PATRON: May
SUMMARY: **Secretary of Technology; duties.** Assigns to the Secretary of Technology the responsibility for developing and coordinating a comprehensive policy for research and development in the Commonwealth. The bill adds the Virginia Research and Technology Advisory Commission to the list of agencies for which he is responsible. The bill also assigns to the Secretary the tasks of monitoring and analyzing the technology investments and strategic initiatives of other states to ensure the Commonwealth remains competitive; strengthening interstate and international partnerships and relationships in the public and private sectors to bolster the Commonwealth's reputation as a global technology center; developing and implementing strategies to accelerate and expand the commercialization of intellectual property created within the Commonwealth; ensuring the Commonwealth remains competitive in cultivating and expanding growth industries, including life sciences, advanced materials and nanotechnology, biotechnology, and aerospace; and monitoring the trends in the availability and deployment of and access to broadband communications services. The bill adds the Secretary to the cabinet-level committee created to assist the Secretary of Commerce and Trade in the development of the comprehensive economic development policy for the Commonwealth; the Council on Technology Services; the Board of Trustees of the A. L. Philpott Manufacturing Extension Partnership; and the Advisory Council on Career and Technical Education to ensure a comprehensive and integrated policy for the Commonwealth on education, commerce, workforce and technology. This bill incorporates HB1467.

BILL NUMBER: House Bill 547
PATRON: May
SUMMARY: **State Council of Higher Education for Virginia; policies and strategies to develop human capital.** Requires the State Council of Higher Education for Virginia (SCHEV) to develop policies and strategies to eliminate the barriers between the Commonwealth's institutions of higher education and industry and enhance the development of human capital in the Commonwealth. These

policies and strategies shall include a review of (i) offering incentives for industry to partner with universities in the practical training of undergraduate and graduate students; (ii) providing opportunities and incentives for corporate scientists and engineers to have adjunct appointments at universities to train and collaborate with faculty and students; (iii) assisting universities in acquiring funding to build or buy facilities where academic labs and corporate entities can work together; (iv) providing opportunities and assistance for academic researchers to take one- to two- year sabbaticals in a corporate setting or national lab and bring that experience back to the institution; (v) increasing the two-year leave of absence for science and engineering faculty to generate more industrial-sponsored research; (vi) allowing industry to fully fund faculty salaries and allow the faculty to work in industry while remaining a university employee, with proper safeguards in place; and (vii) allowing faculty to be part-time university employees and part-time industry employees, also with proper safeguards in place.

BILL NUMBER: House Bill 548

PATRON: May

SUMMARY: **Uniform Computer Information Transactions Act (UCITA).** Amends UCITA to incorporate changes adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The bill clarifies that (i) insurance services transactions are not covered by UCITA even if computers are used; (ii) the consumer protection law that would have governed in the absence of UCITA still governs; (iii) end-user licenses cannot prohibit or limit lawful public discussion; and (iv) the laws of fraud, misrepresentation, and unfair and deceptive trade practices, as they deal with failure to disclose defects, still apply. The bill also (a) deletes the default rules for license duration and the number of permitted users when the contract is silent and returns the defaults to the common law; (b) provides that there is no implied warranty with respect to subjective characteristics; and (c) provides that the implied warranties and obligations concerning noninterference, noninfringement and merchantability do not apply to free software. Finally, the bill makes certain technical amendments that reorganize a few sections of UCITA to make it easier to read and more consistent with NCCUSL's final version of the uniform law. This bill is a recommendation of the Joint Commission on Technology and Science.

BILL NUMBER: House Bill 617

PATRON: Carrico

SUMMARY: **Distance learning.** Requires, effective January 1, 2005, that each public institution of higher education include information in its strategic plan indicating to what extent, if any, it will use distance learning to expand access, improve quality, and minimize the cost of education. For institutions using or planning to use distance learning in the future, such information shall include the degree to

which distance learning will be integrated into the curriculum, benchmarks for measuring such integration, and a schedule for the evaluation of such courses. The State Council of Higher Education must assist the governing boards in the development of such information.

In addition, community colleges are required to maximize the availability and use of distance learning courses addressing workforce training needs.

BILL NUMBER: House Bill 650
PATRON: Bell
SUMMARY: **Crimes; wiretaps.** Corrects an oversight in the wording of the current provision making it a crime to intentionally use, or endeavor to use, the contents of any electronic communication, knowing or having reason to know that the information was obtained through the interception of an electronic communication.

BILL NUMBER: House Bill 663
PATRON: Bell
SUMMARY: **Unlawful filming, videotaping or photographing of child; penalty.** Provides that videotaping, photographing or filming a nude or undergarment-clad nonconsenting person under the age of 18, under circumstances where the person would have a reasonable expectation of privacy, is punishable as a Class 6 felony. Currently, the offense is a Class 1 misdemeanor without regard to the age of the nonconsenting person.

BILL NUMBER: House Bill 689
PATRON: Morgan
SUMMARY: **Virginia Telephone Privacy Protection Act; telephone solicitation.** Expands the definition of a "telephone solicitation call" to include solicitation calls made to any wireless telephone with a Virginia area code. A telephone solicitor is prohibited from calling a telephone number that has been placed on the federal Do Not Call Registry. The bill provides that the use of a version of the federal Do Not Call Registry obtained no more than three months prior to the date of the telephone solicitation is an affirmative defense to an action alleging a violation of the Telephone Privacy Protection Act. The bill requires telephone solicitors to play a prerecorded identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made, whenever a live person is not available within two seconds of completing the greeting. This bill is identical to SB 344.

BILL NUMBER: House Bill 749
PATRON: Marshall, R.G.
SUMMARY: **Public Procurement Act; cooperative procurement U.S. General Services Administration.** Authorizes state and local entities to enter into a

cooperative procurement agreement to purchase from any contract of the United States General Services Administration (GSA) or the contract of any other federal agency. Regarding such contracts, the bill specifically authorizes (i) state entities, with the approval of the Director of the Division Purchases and Supply, to purchase goods and nonprofessional services other than telecommunications and information technology, (ii) state entities, with the approval of the Chief Information Officer, to purchase telecommunications and information technology goods, and (iii) localities to purchase goods and nonprofessional services. The bill is identical to SB 302.

BILL NUMBER: House Bill 769

PATRON: Hurt

SUMMARY: **Career and technical education.** Directs local school boards to include, within the currently required career and technical education program, curricula that promote knowledge of entrepreneurship and small business ownership. Current programs are to address "all types of employment opportunities," such as apprenticeships, the military, and career education schools. The bill also requires that notice of dual enrollment opportunities between high schools and community colleges be provided to students and parents.

BILL NUMBER: House Bill 783

PATRON: McDougle

SUMMARY: **Inventories of controlled substances required by the Board of Pharmacy; certain limited exceptions.** Eliminates the requirement for the Division of Forensic Science to inventory the approximately 1200 drugs maintained in very small quantities as "standards" for making comparisons with the evidence that may be submitted for analyses. In addition, no inventory for the purpose of compliance with Board of Pharmacy requirements will be required of known or suspected controlled substances that have been received as evidentiary materials for analyses by the Division of Forensic Science. This bill tracks federal law to provide limited exceptions to the state inventory requirements, a task requiring many hours of the Division's staff time. The Division's exceptions apply to standards of (i) controlled substances on hand at the time of the inventory in a quantity of less than one kilogram, other than a hallucinogenic controlled substance listed in Schedule I of the Drug Control Act; or (ii) hallucinogenic controlled substances listed in Schedule I of the Drug Control Act, other than lysergic acid diethylamide (LSD), on hand at the time of the inventory in a quantity of less than 20 grams; or (iii) LSD on hand at the time of the inventory in a quantity of less than 0.5 grams.

BILL NUMBER: House Bill 786
PATRON: McDougle
SUMMARY: **Procedure for taking blood samples.** Adds pvp iodine and povidone iodine as substances that may be used to cleanse the part of the body from which a sample of blood is taken for testing for DUI.

BILL NUMBER: House Bill 798
PATRON: Petersen
SUMMARY: **Telecommunications; telephonic reading services.** Authorizes funding for the operation of telephonic reading services through the assessments already being received for the telecommunications relay service. "Telephonic reading services" means audio information provided by telephone to the blind and visually impaired through a nationally available, multi-state service center to registered readers in all parts of the Commonwealth, including the interstate acquisition and distribution of daily newspapers and other information. Enactment of this bill is contingent upon future general fund appropriations.

BILL NUMBER: House Bill 837
PATRON: Brink
SUMMARY: **Voting equipment and technology and related election law offenses; penalties.** Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to SB 313 except that this bill contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute.

BILL NUMBER: House Bill 872
PATRON: Byron
SUMMARY: **Identity theft; fictitious name; identity theft passport; Attorney General to conduct criminal prosecutions; day care records; penalties.** Authorizes the Attorney General, with the concurrence of the attorney for the Commonwealth, to assist in the prosecution of the crimes of identity theft (§ 18.2-186.3) and the use of a person's identity with the intent to intimidate, coerce, or harass (§ 18.2-186.4). The bill allows for a conviction under the identity theft statutes when the defendant uses a false or fictitious name. The bill requires the Division of Motor Vehicles, upon notification from the Attorney General that an Identity Theft Passport has been issued to a driver, to note the same on the driver's abstract. The bill directs child day programs that reproduce or retain documents of a child's proof of identity that are required upon the child's enrollment into the program to destroy them upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security

numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

BILL NUMBER: House Bill 873

PATRON: Van Landingham

SUMMARY: **Municipalities; alert and warning system.** Requires all localities with a population greater than 50,000 to establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of a warning or threatened disaster. The bill also requires the local governing body to amend its local emergency operations plan to include rules for the operation of its alert and warning plan, which may include outdoor warning sirens, Emergency Alert Systems, NOAA Weather Radios, amateur radio operators, or other personal notification systems that are capable of disseminating adequate and timely warning to the public in the event of an emergency or threatened disaster. The plan must be established by July 1, 2005.

BILL NUMBER: House Bill 876

PATRON: O'Bannon

SUMMARY: **Disclosure of mental health information.** Adds to the law in Title 37.1 relating to disclosure of mental health information various technical amendments to clarify (i) who may submit a bill to a third party payor; (ii) that the information on the patient must include his address and date of birth; (iii) that patient consent or authorization is required for disclosure of mental health information; and (iv) that patient consent or authorization must be in writing and must be dated and signed and must also comply with the requirements for authorization of disclosure set out in subsection G of § 32.1-127.1:03. Subsection G of § 31.2-127.1:03 requires the name of the patient, the provider and the identity of the person to whom disclosure may be made, and the nature of the information to be disclosed.

This bill also sets out a procedure by which a patient may receive a review by an objective physician or clinical psychologist of whether the patient may receive a copy of a third party payors' information in those instances where the treating physician or clinical psychologist has advised the third party payor that the information would be reasonably likely to endanger the life or physical safety of the patient or another person or contains a reference to another person that would be reasonably likely to cause substantial harm to the referenced person. The standard for limiting disclosure to the patient who is the subject of the record is changed from "might adversely affect the patient's health" to "would be reasonably likely to endanger the life or physical safety of the patient or another person, or that such record makes reference to a person other than a health

care provider, and the access requested would be reasonably likely to cause substantial harm to such referenced person."

BILL NUMBER: House Bill 877
PATRON: O'Bannon
SUMMARY: **Health records privacy; procedure for certain patients to obtain access to their records.** Revises the various laws setting out an exception to the patient's traditional access to his own health records to provide consistency with a new procedure that must be used to ensure fair appraisal of the judgment of a treating physician or clinical psychologist concerning the potential harm to the patient or others that could result from such access. This provision revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense, or the relevant health care provider or insurance entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care provider or insurance entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual. The access decision of the designated reviewing physician or clinical psychologist must be followed.

BILL NUMBER: House Bill 878
PATRON: O'Bannon
SUMMARY: **Access to health records for guardians ad litem and attorneys representing minors and certain adults in court proceedings.** Ensures compliance with federal regulations concerning protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act while providing access to health records and information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians and/or conservators.

BILL NUMBER: House Bill 879
PATRON: O'Bannon
SUMMARY: **Health records privacy.** Revises the Virginia patient privacy provision to comply more closely with the regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996, as amended,

relating to health records. Closer compliance is achieved through various syntax changes in terminology, definitions, and forms, and revisions and additions to the definitions, e.g., "health care entity," as defined in this provision, includes all health care providers, health plans or health care clearinghouses. The bill refers to an "individual" instead of a "patient"; to "health records" instead of "medical records"; and "health care providers" or "health care entities" instead of providers. This provision also revises the standard by which a patient can be denied access to his records to require the treating physician or clinical psychologist to find that a review of the individual's health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person would be reasonably likely to cause substantial harm to the referenced person. The individual may designate a reviewing physician or clinical psychologist at his own expense or the health care entity denying access to the health record will designate a reviewing physician or clinical psychologist at the expense of the relevant health care entity. The designated physician or clinical psychologist will make a judgment as to whether the health record should be made available to the individual.

BILL NUMBER: House Bill 887
PATRON: Plum
SUMMARY: **Emissions inspections; hybrid vehicles.** Exempts qualified hybrid vehicles from the motor vehicle emissions inspection program.

BILL NUMBER: House Bill 919
PATRON: Phillips
SUMMARY: **Water and sewer authorities; conduits for fiber optic cable.** Permits water and sewer authorities to install, own and lease pipe or conduit for purpose of carrying fiber optic cable provided that certain conditions are met.

BILL NUMBER: House Bill 932
PATRON: Marshall, D.W.
SUMMARY: **Institute for Advanced Learning and Research.** Increases the membership of the governing board of the Institute for Advanced Learning and Research from nine to 15 by adding six citizen representatives, two each appointed by the Governor, the Senate Committee on Privileges and Elections, and the Speaker of the House of Delegates.

Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is authorized to enter into and administer agreements with institutions of higher education to deliver traditional and electronic education and is to diversify the region's economy by

providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia.

BILL NUMBER: House Bill 933

PATRON: Marshall, D.W.

SUMMARY: **Institute for Advanced Learning and Research.** Adds the Institute for Advanced Learning and Research to the list of those entities characterized as "educational institutions" and "governmental instrumentalities for the dissemination of education."

Created by the 2002 Session, the Institute is located in Danville and was founded by Averett University, Danville Community College, and Virginia Polytechnic Institute and State University. The Institute is to diversify the region's economy by providing a site for the development of technology and a trained workforce and expanding access to higher education in Southside Virginia.

Current law designates as "educational institutions" the Commonwealth's four-year public colleges and universities, the Virginia Community College System, the Woodrow Wilson Rehabilitation Center, the Virginia Schools for the Deaf and the Blind, the Eastern Virginia Medical School, and the Southwest Virginia Higher Education Center. This classification as an educational institution will enable the Institute to issue bonds with the approval of its governing board and the Governor (§§ 23-15 and 23-19), acquire property (§ 23-16), be eligible for its bonds to be purchased by the Virginia College Building Authority (§§ 23-30.24, 23-30.25, 23-30.27, and 23-30.28), establish a campus police department (§ 23-232), and authorize such campus police to purchase their service handguns (§ 23-232).

This designation will not empower the Institute to establish unfunded scholarships (§ 23-31), nor will it place the Institute under the State Council of Higher Education for Virginia (SCHEV), the coordinating council for two- and four-year public colleges and universities. In addition, the designation does not require the Institute to submit an annual report to SCHEV regarding financial statements (§ 23-1.01).

The term "educational institution" appears in a variety of contexts throughout the Code. The term, for purposes of § 23-14, does not necessarily include all entities described as "institutions of higher education" or "institutions of higher learning" elsewhere in the Code.

"Educational institution" is used broadly in Code provisions addressing matters such as employment, prohibited contracts, and certain field permits.

"Educational institutions" may also sell real estate (§ 13.1-901); establish educational television stations (§ 15.2-966); have students excluded from certain toll payments (§ 22.1-187); and have governing board members reimbursed for travel expenses (§ 23-3). Public "educational institutions" receiving state funds may not discriminate against persons with disabilities (§ 51.5-43). Not referenced in § 23-14, nor subject to SCHEV as a coordinating council, are these designated "educational institutions": the Miller School of Albemarle, the Board of Regents of Gunston Hall, the Frontier Culture Museum, the Science Museum of Virginia, the Jamestown-Yorktown Foundation, and The Library of Virginia. The term has also been used in reference to private correspondence schools (§ 22.1-319). Designation as an "institution of higher education" has been applied to the Virginia Museum of Fine Arts, (which is not designated as an "educational institution") as well as the Science Museum of Virginia, and specifically makes these entities eligible to receive property and funds from localities (§ 23-3.1) and to maintain their state appropriations, despite any increases in endowment funds (§ 23-9.2).

BILL NUMBER: House Bill 938
PATRON: Kilgore
SUMMARY: **Telecommunications; competition policy.** Directs the State Corporation Commission, in resolving issues and cases concerning local exchange telephone service under the federal Telecommunications Act or state law to consider it in the public interest, as appropriate, to treat all providers of local exchange telephone services in an equitable fashion and without undue discrimination and, to the greatest extent possible, apply the same rules to all providers of local exchange telephone services. The Commission is also required to consider it in the public interest, as appropriate, to promote competitive product offerings, investments, and innovations from all providers of such services in all areas of the Commonwealth and to reduce or eliminate any requirement to price retail and wholesale products and services at levels that do not permit providers of such services to recover their costs of those products and services.

BILL NUMBER: House Bill 977
PATRON: Reese
SUMMARY: **Remote access fee.** Allows clerks the additional option to assess the remote access fee by flat rate. Current law allows either for fees on each inquiry or fees for actual connect time.

BILL NUMBER: House Bill 1043
PATRON: Saxman
SUMMARY: **Competitive Government Act.** Requires the Governor to conduct biennially an enterprise-wide examination of the commercial activities that are being performed by state employees to ensure that such activities are being

accomplished in a most cost-efficient and effective manner. The examination may be conducted by a commercial source through a solicitation under the Public-Private Education Facilities and Infrastructure Act or the Public Procurement Act. The bill also provides for the Secretary of Administration to submit a report on the initial examination to the Governor and the Chairs of Appropriations and Senate Finance by January 1, 2006 and thereafter every two years. In addition, the bill provides for the Secretaries of Administration, Finance and Technology to update the list of commercial activities established by the Commonwealth Competition Council and to provided guidance to state agencies in outsourcing efforts.

BILL NUMBER: House Bill 1058
PATRON: McDonnell
SUMMARY: **Transfer of forfeiture statutes to the criminal procedure code.** Moves forfeiture provisions from Title 18.2 (criminal law) to Title 19.2 (criminal procedure) without substantive change.

BILL NUMBER: House Bill 1094
PATRON: Moran
SUMMARY: **State employees; establishment of agency alternative work schedule and telecommuting policy.** Requires the head of each state agency to establish a telecommuting and alternative work policy under which eligible employees of such agency may telecommute, participate in alternative work schedules, or both. The bill also requires each agency head to set target goals for the number of positions eligible for alternative work schedules by July 1, 2009. This bill is identical to SB 468.

BILL NUMBER: House Bill 1125
PATRON: McDonnell
SUMMARY: **Computer crimes committed by adults.** Clarifies language to ensure that 18-year-olds are covered by the statute criminalizing use of a communications system to solicit sexual activity with children.

BILL NUMBER: House Bill 1145
PATRON: McDonnell
SUMMARY: **Virginia Public Procurement Act; small, women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs when there exists a rational basis for small business enhancement or an analysis that documents statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall comply with the procedural and evidentiary standards established by the United States Supreme

Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469, (1985). This bill incorporates House Bill 262 and House Bill 520. The bill is also identical to SB 598.

BILL NUMBER: House Bill 1159
PATRON: Hull
SUMMARY: **Individual income tax preparers; electronic filing; penalty.** Requires income tax return preparers who prepared at least 100 individual income tax returns for any taxable year beginning on January 1, 2004, (200 returns for taxable years beginning January 1, 2003) to file tax returns for all subsequent taxable years using electronic means or software that produces a two-dimensional barcode using two-dimensional-technology reflecting information.

BILL NUMBER: House Bill 1174
PATRON: Bryant
SUMMARY: **Telecommunications taxation; Section 1 bill.** Proposes changes in the way telecommunications are taxed that would repeal several state and local taxes and replace them with a yet-to-be-named tax and E-911 fee and tax. Following the 2004 General Assembly Session, the working group of industry and local government representatives that has been assisting the Joint Subcommittee Studying the State and Local Taxation of the Entire Telecommunications Industry and Its Customers within the Commonwealth (HJR 651, 2003; HJR 209, 2002) with its work would continue to meet and work on remaining issues. The working group would report its recommendations to the chairmen of the House and Senate Finance Committees no later than November 15, 2004. The proposal is for legislation to be introduced during the 2005 General Assembly that would actually contain the provisions necessary to carry out this intent. This method is similar to the manner used for developing the changes needed for electric utility deregulation.

BILL NUMBER: House Bill 1189
PATRON: Scott, J.M.
SUMMARY: **Contract formation; federal Fair Credit Billing Act.** Provides that a transaction shall be presumed to have occurred at the mailing address most recently provided by the holder of a credit card to the card issuer. The place where such a credit card transaction occurred is relevant in a determination of whether a credit card purchaser is able to assert certain claims and defenses pursuant to the federal Fair Credit Billing Act.

BILL NUMBER: House Bill 1213
PATRON: Landes
SUMMARY: **Center for Rural Virginia.** Establishes the Center for Rural Virginia as an independent local entity without political subdivision status for the purpose of sustaining economic growth in the rural areas of the Commonwealth. The

Center shall be governed by a board of directors whose duties shall include (i) establishing the Center as a 501(c)(3) tax-exempt corporation and (ii) seeking federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act 2002, P. L. 107 - 171. This bill is identical to SB 407.

BILL NUMBER: House Bill 1231

PATRON: Griffith

SUMMARY: **Clarifications for certain collegial bodies.** Conforms certain collegial body requirements to meet the legislative guidelines adopted by the Joint Rules Committees and codifies certain existing collegial bodies. These bodies include: the Institute for Advanced Learning and Research, the Commonwealth Council on Aging, Alzheimer's Disease and Related Disorders Commission, the Capitol Square Preservation Council, the Advisory Council on Career and Technical Education, the Chesapeake Bay Commission, the Chesapeake Bay Restoration Fund Advisory Committee, the Virginia Coal and Energy Commission, the Virginia Code Commission, the Virginia State Crime Commission, the Criminal Justice Services Board, the Criminal Sentencing Commission, the Advisory Board of Economists, the Commission on Electric Utility Restructuring, the Ethics Advisory Panels of the House and Senate, the Freedom of Information Advisory Council, the Council on Virginia's Future, the Geographic Information Network Advisory Board, the Hampton Roads Transportation District Commission, the Virginia Housing Study Commission, the Virginia Council on Human Resources, the Information Technology Investment Board, the Virginia Commission on Intergovernmental Cooperation, the Joint Legislative Audit and Review Commission, the Judicial Council, the Judicial Inquiry and Review Commission, the Advisory Committee on Juvenile Justice, the Legislative Support Commission, the Virginia Military Advisory Council, the Dr. Martin Luther King, Jr. Memorial Commission, the Martin Luther King, Jr. Living History and Public Policy Center, the Northern Neck-Middle Peninsula Public Education Consortium, the Northern Virginia Transportation Authority, the Northern Virginia Transportation District Commission, the Potomac and Rappahannock Transportation District Commission, the Governing Board of the Virginia Office for Protection and Advocacy, the Virginia Public Buildings Board, the Public-Private Partnership Contracts Oversight Group, the Joint Reapportionment Committee, the Advisory Council on Revenue Estimates, the Roanoke Higher Education Authority, the Small Business Commission, the Small Business Environmental Compliance Advisory Board, the Southern Growth Policies Board, the Southern Regional Education Board, the Southern States Energy Board, the Board of Trustees of the Southwest Virginia Higher Education Center, the Board of Trustees of the Virginia Tobacco Settlement Foundation, the Board of Veterans' Services, the Board of Directors of the Virginia Commonwealth University Health System Authority, the Virginia Israel

Advisory Board, the Board of Trustees of the Virginia Retirement System, Commission on Unemployment Compensation, the State Water Commission, the Statewide Coordinating Committee for the Medical Costs Peer Review Program under the Workers Compensation Act, the Workforce Council, and Virginia Commission on Youth.

BILL NUMBER: House Bill 1330
PATRON: Miles
SUMMARY: **Security of state government databases and data communications.** Requires the director of every department in the executive branch of state government to report to the Chief Information Officer (CIO) all known incidents that threaten the security of the Commonwealth's databases and data communications resulting in exposure of data protected by federal or state laws, or other incidents compromising the security of the Commonwealth's information technology systems with the potential to cause major disruption to normal agency activities, computer viruses and worms, denial of service attacks, unauthorized uses and intrusions, and such other security threats. Such reports shall be made to the CIO within 24 hours from when the department discovered or should have discovered their occurrence. The bill also requires the CIO to promptly receive these reports and to take such actions as are necessary, convenient or desirable, to ensure the security of the Commonwealth's databases and data communications. The bill has a delayed effective date of January 1, 2005.

BILL NUMBER: House Bill 1357
PATRON: Griffith
SUMMARY: **Freedom of Information Act (FOIA); exclusions.** Provides that public access to meetings of the General Assembly, except floor sessions, committee or subcommittee meetings and conference committee meetings, shall be governed by rules established by the Joint Rules Committee. Floor sessions and committee and subcommittee meetings will continue to be open to the public. The Joint Rules Committee must hold regional public hearings at least 60 days before the adoption of the rule. The bill provides that meetings of political party caucuses of either house of the General Assembly are excluded from the meeting provisions of FOIA.

BILL NUMBER: House Bill 1360
PATRON: Nixon
SUMMARY: **Information technology and telecommunications procurement; Virginia Information Technologies Agency (VITA).** Adds the requirement that VITA conduct procurements in accordance with the regulations implementing the electronic and information technology accessibility standards of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), in addition to other

requirements. Such procurements may not exceed the Rehabilitation Act of 1973 regulations.

BILL NUMBER: House Bill 1364
PATRON: Jones, S.C.
SUMMARY: **Freedom of Information Act (FOIA); record exemption; certain emergency service records.** Provides an exemption from the mandatory disclosure requirements of FOIA for subscriber data, which for the purposes of the exemption, means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier, provided directly or indirectly by a telecommunications carrier to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system, if the data is in a form not made available by the telecommunications carrier to the public generally. The bill provides that nothing shall prevent the release of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.

BILL NUMBER: House Bill 1383
PATRON: McDougle
SUMMARY: **Access to DMV records.** Provides for access to records of the Department of Motor Vehicles (DMV) for authorized representatives of insurance companies or of any not-for-profit entities organized to prevent and detect insurance fraud, conduct claims investigations, or perform rating and underwriting activities. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

BILL NUMBER: House Bill 1424
PATRON: Dudley
SUMMARY: **Personal Information Privacy Act; date of birth on checks.** Prohibits a person who accepts checks in the transaction of business from recording, or requesting or requiring a person to record, a date of birth upon the check as a condition of accepting the check. The section does not affect collection of a birth date for reasons unrelated to accepting the check, nor does it block a requirement that the payor provide his year of birth.

BILL NUMBER: House Bill 1463
PATRON: Hugo
SUMMARY: **Imposition of sales and use tax; declaratory judgment.** Grants circuit courts original jurisdiction over civil actions where a business organized under Virginia law or qualified to do business in Virginia seeks a declaratory judgment that the business is not obligated to collect and remit sales and use taxes to another state. This bill is identical to SB 668.

BILL NUMBER: House Joint Resolution 6
PATRON: Cox
SUMMARY: **Study; Virginia Public Records Act.** Creates a joint subcommittee to study the Virginia Public Records Act, electronic records, and their effect on the state depository system. In conducting its study, the joint subcommittee shall examine the Virginia Public Records Act and the extension of its scope to (i) provide and assign authority to establish and maintain guidelines or regulations for the creation, transfer, and archival preservation of electronic state records and publications; (ii) provide and assign authority to establish and maintain procedures for the official authentication of e-records and documents; and (iii) establish a means to identify, describe, receive, and manage discrete electronic government information products covered by copyright. This resolution is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002). This resolution is identical to SJR 1.

BILL NUMBER: House Joint Resolution 13
PATRON: Landes
SUMMARY: **Study; two-term Governor.** Establishes a joint subcommittee to study the appropriate balance of power between the legislative and executive branches to support a two-term Governor. The joint subcommittee shall (i) examine the history of the Governor's power in the Commonwealth; (ii) compare the powers of the governors of other states; (iii) determine the balance of power established between the executive and legislative branches in other states, particularly in those states that transitioned from a one-term governor to a two-term governor; and (iv) consider constitutional and statutory options for the equitable distribution of power between the legislature and executive branch to support a two-term Governor in the Commonwealth.

BILL NUMBER: House Joint Resolution 79
PATRON: Purkey
SUMMARY: **Study; mistaken identity.** Directs the Virginia State Crime Commission to study mistaken identification in criminal cases. The commission shall (i) review the cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime; (ii) examine the procedures used in traditional police lineups or photographic review; and (iii) consider the sequential method as a procedure for identifying suspects.

BILL NUMBER: House Joint Resolution 105
PATRON: Drake
SUMMARY: **Study; Commonwealth's assistance to localities for developing adequate K-12 school infrastructure.** Creates a joint subcommittee to study the level of

the Commonwealth's assistance to localities that is necessary for developing adequate K-12 schools infrastructure. The joint subcommittee shall consider the physical and technical structure needs of K-12 schools throughout the Commonwealth and various options for funding those needs.

BILL NUMBER: House Joint Resolution 120
PATRON: May
SUMMARY: **Study; Nanotechnology.** Directs the Joint Commission on Technology and Science to identify nanotechnology research and economic development opportunities for the Commonwealth. The Commission shall consider the efficacy of creating a statewide, comprehensive and coordinated strategy to secure additional federal research and development funds and to boost commercial activity in this fast-emerging sector.

BILL NUMBER: House Joint Resolution 134
PATRON: O'Bannon
SUMMARY: **Study; Disclosure of health records.** Directs the Joint Commission on Health Care to study the use and disclosure of health records relative to Virginia law and the federal Health Insurance Portability and Accountability Act (HIPAA). The Commission shall consider the need for amendments to Virginia laws and recommend ways to assist health care providers and other relevant parties to understand and comply with state and federal health record privacy laws.

BILL NUMBER: House Joint Resolution 162
PATRON: Byron
SUMMARY: **Study; "smart" driver's licenses.** Establishes a joint subcommittee to study the desirability and feasibility of issuing driver's licenses and identification cards containing an embedded computer chip that stores biometric and other personal data.

BILL NUMBER: House Joint Resolution 168
PATRON: Ward
SUMMARY: **Resolution; Great Virginia Teach-In.** Designates March 27 and 28, 2004, as the Great Virginia Teach-In in the Commonwealth.

BILL NUMBER: House Joint Resolution 172
PATRON: Lingamfelter
SUMMARY: **Study; income tax and sales and use tax.** Directs the Joint Legislative Audit and Review Commission to collect information from other states and countries that have replaced income tax revenues with sales and use tax revenues.

BILL NUMBER: House Joint Resolution 174
PATRON: Hugo
SUMMARY: **Study; certification process for voting equipment and matters related to the performance and proper deployment of voting equipment.** Creates a joint subcommittee to evaluate the Commonwealth's procedures and processes for evaluating, certifying, and handling voting equipment. The resolution provides for background information from the State Board of Elections on the source codes for direct electronic voting devices and on the undervote experience in 2003 compared to past years.

BILL NUMBER: House Joint Resolution 176
PATRON: Hugo
SUMMARY: **Study; remote sales tax collection.** Creates a joint subcommittee to study the impact of collecting remote sales taxes on the economy of the Commonwealth, including the impact on revenue and small businesses. In conducting its study, the joint subcommittee shall determine the amount of revenue the Commonwealth would generate and the impact on small businesses within the Commonwealth if the Commonwealth collected taxes on remote sales; and the ability to use the lack of a requirement to collect remote sales as a marketing tool.

BILL NUMBER: House Joint Resolution 288
PATRON: Phillips
SUMMARY: **Rules of Court.** Encourages the Supreme Court of Virginia to amend the Rules of Court on electronic filing to allow electronic filing by election of any party of the litigation. This resolution is identical to SJR 130.

BILL NUMBER: House Joint Resolution 324
PATRON: Landes
SUMMARY: **Commending the Virginia Technology Student Association.**

BILL NUMBER: Senate Bill 3
PATRON: Martin
SUMMARY: **Dormant special funds.** Repeals certain dormant special funds, and the associated program, if no appropriation is made to the associated program by July 1, 2004. This bill repeals the Blue Ridge Economic Development Revolving Fund, the Alternative Water Supply Assistance Fund, the Workforce Development Training Fund, the Advantage Virginia Incentive Fund, Program, and Foundation, the Reading Incentive Grants Fund and Program, the Virginia Educational Excellence Incentive Reward Fund and Program, the Families in Education Incentive Grants Fund and Program, the Community-Based Intervention Program for Suspended and Expelled Students and its special fund, the Artists in the Classroom Grants Fund and Program, the Virginia Undergraduate Career and Technical Incentive Scholarship Fund and Program,

the Higher Education Incentive Fund, the Information Technology Employment Performance Grant Fund and Program, and the Landfill Cleanup and Closure Fund. This bill is a recommendation of the Joint Subcommittee Studying the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities pursuant to HJR 159 (2002).

BILL NUMBER: Senate Bill 9
PATRON: Ruff
SUMMARY: **Virginia Employment Commission workforce plan.** Eliminates the Virginia Employment Commission's requirement to develop a workforce plan to be implemented during times of economic recession, natural disaster or military mobilization whereby necessary workers can be provided. This bill is a recommendation of the Joint Subcommittee to Study the Operations, Practices, Duties, and Funding of the Commonwealth's Agencies, Boards, Commissions, Councils, and Other Governmental Entities.

BILL NUMBER: Senate Bill 14
PATRON: Deeds
SUMMARY: **Local consumer utility tax.** Allows the local governing body of the Town of Iron Gate to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While such town ordinance remains in effect, Allegheny County shall not impose the tax within the limits of the town.

BILL NUMBER: Senate Bill 39
PATRON: Stolle
SUMMARY: **Bonds; Virginia Public Building Authority.** Authorizes the Virginia Public Building Authority to issue bonds in the amount not to exceed \$159,300,000 to finance the undertaking, development, acquisition and construction of the first phase of the Statewide Agencies Radio System (STARS).

BILL NUMBER: Senate Bill 95
PATRON: Devolites
SUMMARY: **Virginia Public Procurement Act; online auctions and the General Services Administration.** Adds online public auctions and the United States General Services Administration (GSA) as procurement sources available to public bodies. The bill also provides that state public bodies may purchase telecommunications and information technology goods and nonprofessional services from any contract maintained by GSA upon the approval of the Chief Information Officer. This bill is identical to House Bill 470.

BILL NUMBER: Senate Bill 119
PATRON: Watkins
SUMMARY: **Uniform Commercial Code; Article 7-Documents of Title.** Updates provisions of Article 7 of the Uniform Commercial Code to acknowledge the development of electronic documents of title. Specific measures authorize the reissuance of electronic documents of title in a tangible medium, address when a person has control of an electronic document of title, and address the interaction of Title 7 with the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act.

BILL NUMBER: Senate Bill 148
PATRON: Cuccinelli
SUMMARY: **Release of "Smart Tag" information.** Provides that, with three exceptions, data generated by automated electronic toll-collection systems (such as "Smart Tag") on use of toll facilities by individually identifiable vehicles can only be disclosed when so required by order of a court of competent jurisdiction. The bill also provides for injunctive relief and payment of attorneys' fees for persons aggrieved by violations.

BILL NUMBER: Senate Bill 161
PATRON: Potts
SUMMARY: **Department of General Services; disposition of surplus computer equipment.** Removes the limitation on the amount of surplus materials that may be donated in the case of computer equipment and related items to Virginia public schools. The bill also makes two technical amendments that raise the market value of surplus materials that may be donated from \$200 to \$500 and the limitation on the percentage from five to 25 percent of the revenue generated. These changes were previously enacted by Chapter 615 of the 2000 Acts of the General Assembly but were not carried over by the recodification of Title 2.1 that passed during the 2001 session.

BILL NUMBER: Senate Bill 171
PATRON: Stolle
SUMMARY: **Telecommunications; Wireless E911 Fund; Fund payments.** Eliminates the requirement that the Wireless E-911 Board make qualifying payments to eligible operators and providers in four equal payments at the beginning of each calendar quarter, and authorizes the Board to make the payments on an alternate schedule approved by the Board.

BILL NUMBER: Senate Bill 224
PATRON: Marsh
SUMMARY: **Physician disclosure of medical treatment options.** Authorizes physicians to disclose fully all medical treatment options to patients whether or not (i) such treatment options are experimental or covered services, (ii) the treatment

options include services that the health insurer will not authorize, or (iii) the costs of the treatment will be borne by the health insurer or the patient, if the physician determines that an option is in the best interest of the patient. This bill also prohibits health insurers from limiting, restricting, or prohibiting physicians from disclosing such information. Physicians who disclose such information to persons with whom they have a physician-patient relationship are immune from liability to any health insurer, in an action instituted solely on behalf of the health insurer, for any civil damages arising from the disclosure of such information.

BILL NUMBER: Senate Bill 241

PATRON: Norment

SUMMARY: **Technology Trust Fund Fee.** Increases the fee from \$3 to \$5 and allows the use of the Trust Fund for developing and updating land records automation plans for individual clerks' offices; modernizing land records in individual clerks' offices and providing secure remote access to land records statewide; obtaining and updating office automation and information technology equipment; preserving, maintaining and enhancing court records, including, but not limited to, the costs of repairs, maintenance, service contracts and system upgrades; and improving public access to court records. The bill allows the clerk to use the Trust Fund for technology improvements in the law and chancery and criminal divisions after implementation of automation of land records with statewide secure remote access. The bill repeals the sunset provision of July 1, 2008, and declares that the intent of the General Assembly is that secure remote access be provided by all clerks by July 1, 2006.

BILL NUMBER: Senate Bill 278

PATRON: Wampler

SUMMARY: **Reporting of telemedicine initiatives.** Repeals the statute that requires the Commissioner of Health to annually report by October 1 to the Governor and the General Assembly on the status of telemedicine initiatives by agencies of the Commonwealth.

BILL NUMBER: Senate Bill 280

PATRON: Wampler

SUMMARY: **Provision of cable television services by certain localities.** Provides that the Auditor of Public Accounts, in connection with the audit of a locality's cable television services, shall not disclose the portions of a comprehensive business plan that reveal marketing strategies of a municipal cable television service.

BILL NUMBER: Senate Bill 297

PATRON: O'Brien

SUMMARY: **Freedom of Information Act; record exemption; cell phone numbers of law-enforcement personnel.** Provides that records of a law-enforcement agency to the extent they disclose the telephone numbers for cellular telephones,

paggers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties are exempt from the mandatory disclosure requirements of the Freedom of Information Act. The bill is identical to House Bill 538.

BILL NUMBER: Senate Bill 302

PATRON: O'Brien

SUMMARY: **Public Procurement Act; cooperative procurement.** Authorizes state and local entities to enter into a cooperative procurement agreement to purchase from any contract of the United States General Services Administration (GSA) or the contract of any other federal agency. Regarding such contracts, the bill specifically authorizes (i) state entities, with the approval of the Director of the Division Purchases and Supply, to purchase goods and nonprofessional services other than telecommunications and information technology, (ii) state entities, with the approval of the Chief Information Officer, to purchase telecommunications and information technology goods, and (iii) localities to purchase goods and nonprofessional services. This bill is identical to House Bill 749.

BILL NUMBER: Senate Bill 313

PATRON: Howell

SUMMARY: **Voting equipment and technology and related election law offenses; penalties.** Incorporates a number of changes in current law provisions on voting equipment and related offenses to cover new developments in voting technology, software, programming and related security and operations issues. As passed, this bill is similar to HB 837 except that HB 837 contains a provision prohibiting the removal of inoperative voting equipment from a polling place on election day unless the removal is explicitly authorized by statute.

BILL NUMBER: Senate Bill 316

PATRON: Howell

SUMMARY: **Local consumer utility tax.** Allows the local governing bodies of the Towns of Herndon and Vienna to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. Each town may adopt such ordinance. While the town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of the respective town that has adopted the ordinance.

BILL NUMBER: Senate Bill 325

PATRON: Stolle

SUMMARY: **Counterfeit drugs; the Drug Control Act; penalty.** Renders it unlawful in the same manner and degree as for imitation controlled substances to knowingly manufacture, sell, possess, distribute, dispense or facilitate the distribution or dispensing of any drug known to be counterfeit. "Counterfeit drug" is defined as

"a controlled substance that, without authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or distributor who did in fact so manufacture, process, pack or distribute such drug."

BILL NUMBER: Senate Bill 336

PATRON: Stolle

SUMMARY: **Judicial Inquiry and Review Commission; confidentiality.** Eliminates confidentiality with respect to any evidence of alleged misconduct concerning a judge who is up for election or reelection when such evidence is transmitted to the House and Senate Committees for Courts of Justice or to any member of the General Assembly.

BILL NUMBER: Senate Bill 337

PATRON: Stolle

SUMMARY: **Health records privacy; access to health records; compliance with federal Health Insurance Portability and Accountability Act regulations.** Makes statutes relating to the Freedom of Information Act, civil procedure, denial of access to health records, juvenile and domestic court proceedings, health records privacy, involuntary commitment, court-appointed guardians and conservators, release of mental health information, and health insurance information consistent with federal regulations concerning disclosure and electronic transmission of protected health information promulgated pursuant to the Health Insurance Portability and Accountability Act. The bill provides a modified procedure for a patient to pursue obtaining his own records when a treating physician or clinical psychologist has placed a statement in his record denying such access. The standard for such statements is changed to reasonably likely to endanger the life or physical safety of the individual or another person, or that a reference in the health records to another person, who is not a health care provider, would be reasonably likely to cause substantial harm to the referenced person. The individual may, at his own expense, designate a reviewing physician or clinical psychologist with equivalent credentials to those of the physician or clinical psychologist denying him access to his records to determine whether he can have access to the information. In the alternative, the relevant health care entity is obligated to designate a physician or clinical psychologist, at its expense, to determine whether the individual will obtain access to his information. The decision of the designated physician or clinical psychologist must be followed. The bill also includes technical amendments to laws relating to disclosure of mental health information. The bill addresses access to health records and information for guardians ad litem and attorneys representing minors in juvenile and domestic court proceedings, proceedings to

authorize treatment for patients incapable of providing consent to treatment, persons who are subject to petitions for involuntary commitment, and respondents who are the subjects of petitions to appoint guardians or conservators or both.

BILL NUMBER: Senate Bill 344

PATRON: Williams

SUMMARY: **Virginia Telephone Privacy Protection Act; telephone solicitation.** Expands the definition of a "telephone solicitation call" to include solicitation calls made to any wireless telephone with a Virginia area code. A telephone solicitor is prohibited from calling a telephone number that has been placed on the federal Do Not Call Registry. The bill provides that the use of a version of the federal Do Not Call Registry obtained no more than three months prior to the date of the telephone solicitation is an affirmative defense to an action alleging a violation of the Telephone Privacy Protection Act. The bill requires telephone solicitors to play a prerecorded identification message that states the name and telephone number of the person on whose behalf the telephone solicitation call was being made, whenever a live person is not available within two seconds of completing the greeting. This bill is identical to House Bill 689.

BILL NUMBER: Senate Bill 352

PATRON: Houck

SUMMARY: **Freedom of Information Act; reorganization of record exemptions.** Reorganizes current § 2.2-3705, the listing of records that are not subject to the mandatory disclosure requirements of the Freedom of Information Act. The bill would repeal § 2.2-3705 and in its place, create seven new sections grouping the exemptions by general subject area. The proposed groupings would include exemptions of general application, exemptions relating to public safety, exemptions relating to administrative investigations, exemptions relating to educational records and educational institutions, exemptions relating to health and social services, exemptions relating to proprietary records and trade secrets, and exemptions applicable to specific public bodies. Like a title revision, the reorganization of § 2.2-3705 involves only technical changes and makes no substantive changes. The bill contains other technical amendments to correct cross references to § 2.2-3705, which is being repealed by this bill. The bill is a recommendation of the Virginia Freedom of Information Advisory Council.

BILL NUMBER: Senate Bill 407

PATRON: Ruff

SUMMARY: **Center for Rural Virginia.** Establishes the Center for Rural Virginia as an independent local entity without political subdivision status for the purpose of sustaining economic growth in the rural areas of the Commonwealth. The

Center shall be governed by a board of directors whose duties shall include (i) establishing the Center as a 501(c)(3) tax-exempt corporation and (ii) seeking federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act 2002, P. L. 107 - 171. This bill is identical to House Bill 1213.

BILL NUMBER: Senate Bill 565

PATRON: Lambert

SUMMARY: **Secretary of Health and Human Services; development of health-related database.** Requires the Secretary of Health and Human Services to develop a reference database of statewide health-related data elements. In order to develop the reference database, each agency within the Health and Human Resources Secretariat shall submit to the Secretary (i) a list of the names and a general narrative description of its existing automated systems containing statewide health-related data; (ii) the hardware and software platforms upon which each identified system is running; and (iii) a data dictionary describing the data fields comprising the system, which data dictionary shall include a narrative description of each data field. The Secretary shall ensure that each agency within the Secretariat uses the database information to the greatest extent possible to improve the overall efficiency and cost-effectiveness of the services rendered by such agencies.

BILL NUMBER: Senate Bill 575

PATRON: Obenshain

SUMMARY: **Sex Offender and Crimes Against Minors Registry Act.** Adds to the list of those required to register under the Act, any person who has solicited or has attempted to solicit, by use of a communications system, certain acts that constitute violations of the taking indecent liberties with children statute. This bill is identical to House Bill 759.

BILL NUMBER: Senate Bill 598

PATRON: Williams

SUMMARY: **Virginia Public Procurement Act; small, women- and minority-owned business participation.** Authorizes the Governor and localities to implement remedial programs when there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women- and minority-owned businesses. The bill also provides that any analysis performed by the Governor or a locality as a basis for determining the existence of discrimination based on race or gender in the awarding of contracting opportunities shall use the standards established by the United States Supreme Court in *The City of Richmond v. J. A. Croson Company*, 488 U.S. 469, (1985), or any subsequent

decision of the Court or other binding authority concerning such standards. The bill is identical to House Bill 1145.

BILL NUMBER: Senate Bill 599
PATRON: Lambert
SUMMARY: **State and local retirement systems; electronic communication.** Permits the Virginia Retirement System and certain local retirement systems to communicate required information to members and beneficiaries through electronic media.

BILL NUMBER: Senate Bill 608
PATRON: Stolle
SUMMARY: **State Police radio system.** Authorizes the Secretary of Public Safety to finalize and implement the Statewide Agencies Radio System (STARS) contract, consistent with the language in the 2003 budget bill. This includes the authority to acquire sites by eminent domain. STARS is a statewide radio and data communication system for law enforcement.

BILL NUMBER: Senate Bill 627
PATRON: Devolites
SUMMARY: **Local consumer utility tax.** Allows the local governing body of the Towns of Vienna and Clifton to impose the local consumer utility tax on mobile phones by adopting a local ordinance on or after July 1, 2004. While the town ordinance remains in effect, Fairfax County shall not impose the tax within the limits of such town.

BILL NUMBER: Senate Bill 632
PATRON: Devolites
SUMMARY: **Sales and use tax exemption for software and content delivered electronically.** Expressly exempts the electronic delivery of software, data, content and other information services via the Internet from the Commonwealth's sales and use tax. This bill clarifies existing law by codifying a long line of State Tax Commissioner Rulings (97-405 and 02-111).

BILL NUMBER: Senate Bill 634
PATRON: Saslaw
SUMMARY: **Applicant Fingerprint Database.** Requires the State Police to develop a separate fingerprint database for use in criminal background checks for the purpose of allowing agencies and entities who require a criminal background check as a condition of licensure, certification, employment or volunteer service to be advised when an individual who is currently licensed, certified, employed or volunteering is arrested for, or convicted of a criminal offense which would disqualify the individual from his current status. The bill also provides that an

entity authorized to submit fingerprints to the database shall not be considered negligent per se in a civil action if it elected not to submit fingerprints.

BILL NUMBER: Senate Bill 646
PATRON: Howell
SUMMARY: **Biotechnology Commercialization Loan Fund; Innovative Technology Authority.** Creates the Biotechnology Commercialization Loan Fund to finance technology transfer and commercialization activities related to biotechnology inventions made, solely or in cooperation with other organizations, at qualifying institutions. The maximum amount of the fund is \$3,000,000 and the maximum amount that any institution can have outstanding is \$500,000. Applications will be made to and decisions will be made by a panel consisting of the President of the Center for Innovative Technology, the Director of the Department of Planning and Budget and the Executive Director of the Virginia Economic Development Partnership, or their designees. Loans are to be repaid at a rate and time determined in the bill. The bill also provides that a record transmitted or delivered by a loan applicant or a loan recipient to a public body, in carrying out its duties under the bill, are excluded from disclosure under the Virginia Freedom of Information Act to the extent such record reveals certain proprietary information.

BILL NUMBER: Senate Bill 659
PATRON: Quayle
SUMMARY: **Sunday closing laws.** Repeals Virginia's "Blue laws."

BILL NUMBER: Senate Bill 668
PATRON: Mims
SUMMARY: **Declaratory judgment; adjudication of constitutional nexus.** Grants circuit courts original jurisdiction over civil actions where a Virginia business seeks a declaratory judgment that no constitutional nexus exists to require the business to collect and remit sales and use taxes to another state. This bill is identical to House Bill 1463.

BILL NUMBER: Senate Joint Resolution 101
PATRON: Martin
SUMMARY: **Confirming Governor's appointments; commerce and trade.** Confirms interim appointments made by Governor Warner related to commerce and trade.

BILL NUMBER: Senate Joint Resolution 102
PATRON: Martin
SUMMARY: **Confirming Governor's appointments; education.** Confirms interim appointments made by Governor Warner related to education.

BILL NUMBER: Senate Joint Resolution 107
PATRON: Martin
SUMMARY: **Confirming Governor's appointments; technology.** Confirms interim appointments made by Governor Warner related to technology.

BILL NUMBER: Senate Joint Resolution 130
PATRON: Devolites
SUMMARY: **Rules of Court.** Encourages the Supreme Court of Virginia to amend the Rules of Court on electronic filing to allow electronic filing by election of any party of the litigation. This resolution is identical to HJR 288.